

No. 13004

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United States  
Court of Appeals  
For the Ninth Circuit.

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RAOUL A. COSENZA,

Appellant.

vs.

UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record

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Appeal from the United States District Court for the  
District of Arizona.



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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## ATTORNEYS OF RECORD

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Attorneys for Appellee.



In the United States District Court  
For the District of Arizona

No. C-9426 Phx.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAOUL A. COSENZA,

Defendant.

INDICTMENT

Violation: 18 U.S.C.A. 2315  
(Receiving Stolen Property in Interstate  
Commerce)

18 U.S.C.A. 4  
(Misprision of Felony)

The Grand Jury Charges:

Count I.  
(18 U.S.C.A. 2315)

On or about the 1st day of December, 1949, at the City of Phoenix, State and District of Arizona, Raoul A. Cosenza did unlawfully and feloniously, at one time, receive from one George Henry Booth and conceal certain stolen jewelry, to wit, two diamond-studded watches, one platinum bracelet set with diamonds, and one diamond patinum pin, all being of the approximate value of \$25,000.00, said jewelry having theretofore been stolen in Oklahoma City, State of Oklahoma, and transported in

interstate commerce from the said Oklahoma City, Oklahoma, to Phoenix, Arizona, and the said defendant, Raoul A. Cosenza, then and there well knowing that said jewelry had been stolen as aforesaid and was then and there in interstate commerce.

Count II.

(18 U.S.C.A. 4)

That on or about the 1st day of October, 1949, in the State and District of Arizona, one George Henry Booth actually committed a crime in violation of Title 18 U.S.C.A. 2314, a felony cognizable by a court of the United States, in that the said George Henry Booth did on or about the said 1st day of October, 1949, transport and cause to be transported in interstate commerce, at one time, certain theretofore stolen jewelry, to wit, one platinum bracelet set with diamonds, two diamond-studded watches and one diamond platinum pin, all being of the approximate value of \$25,000.00, from Oklahoma City, State of Oklahoma, to the City of Phoenix, State and District of Arizona, and that the said George Henry Booth then knew the said jewelry to have been theretofore stolen as aforesaid; that Raoul A. Cosenza, defendant herein, having actual knowledge of the commission of said felony as above set forth, did, on or about the 1st day of December, 1949, in the State and District of Arizona, unlawfully and feloniously conceal the commission of said federal offense and did not, as soon thereafter as possible, in said State and Dis-



trict, make known the same to a judge or other person in civil or military authority under the United States of America.

A True Bill.

/s/ FLOYD WILLIAMS, JR.,  
Foreman.

/s/ F. E. FLYNN,  
United States Attorney for  
The District of Arizona.

[Endorsed]: Filed December 15, 1950.

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In the United States District Court  
For the District of Arizona

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

MINUTE ENTRY OF  
MONDAY, JANUARY 8, 1951

This case comes on regularly for arraignment this date. The defendant is present in person with his counsel W. T. Choisser, Esquire, who appears on behalf of George Wilson, Esquire, counsel for defendant. The defendant is now duly arraigned. The defendant waives the reading of the indictment and a copy thereof is handed to him, and he is

called upon to plead. The defendant's plea is not guilty, which plea is now duly entered.

It Is Ordered that this case be and it is set for trial April 10, 1951, at 10:00 o'clock a.m.

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In the United States District Court  
For the District of Arizona

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

MINUTE ENTRY OF  
THURSDAY, APRIL 12, 1951

This case comes on regularly for trial this day. Frank E. Flynn, Esquire, United States Attorney, and E. R. Thurman, Esquire, Assistant United States Attorney, appear for the Government. The defendant is present in person with his counsel, George T. Wilson, Esquire, and George Sorenson, Esquire. Louis L. Billar is present as official reporter.

Both sides announce ready for trial.

A lawful jury of twelve persons is now duly empaneled and sworn to try this case.

Thereupon, It Is Ordered that all jurors not empaneled in the trial of this case be excused until April 17, 1951, at 10:00 o'clock a.m.

Counsel for defendant moves to invoke the Rule. Said motion is granted and all witnesses present are sworn, instructed by the court and excluded from the court room.

Government's Case

The following Government's witnesses heretofore sworn are now called and examined:

George Young,

Tom Chauncey,

George Henry Booth.

And thereupon at twelve o'clock noon, It Is Ordered that the further trial of this case be continued until 2:00 o'clock p.m., to which time the jury, being first duly admonished by the court, the defendant and counsel are excused.

Subsequently, at 2:00 o'clock p.m., the jury and all members thereof, the defendant and counsel for respective parties being present pursuant to recess, further proceedings of trial are had as follows:

Government's Case Continued

George Henry Booth is now recalled and further examined on behalf of the Government.

Fred Nichols heretofore sworn is now called and examined on behalf of the Government.

Vincent E. Cook heretofore sworn is now called and examined on behalf of the Government.

The following Government's exhibits are now admitted in evidence:

1-A—Platinum bracelet, containing 31 carats of diamond settings.

1-B—Ladies' platinum wrist watch, containing 35 diamonds.

1-C—Ladies' Hamilton wrist watch, containing 77 diamonds.

1-D—Platinum spray dress clip containing 120 diamonds.

1-E—Bracelet containing 5 jade stones and 5 red carnelian stones, and 82 diamonds.

(Above descriptions taken from labels attached to exhibits.)

And thereupon the Government rests.

### Defendant's Case

Robert S. Hooper is now sworn and examined on behalf of defendant.

Raoul S. Cosenza is sworn and examined in his own behalf.

And thereupon at 4:15 o'clock p.m., It Is Ordered that the further trial of this case be continued until Friday, April 13, 1951, at 10:00 o'clock a.m., to which time the jury, being first duly admonished by the court, the defendant and counsel are excused.

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In the United States District Court  
For the District of Arizona

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

### MINUTE ENTRY OF FRIDAY, APRIL 13, 1951

The jury, and all members thereof, the defendant **and all counsel** are present pursuant to recess, and further proceedings of trial are had as follows:

Defendant's Case Continued

Raoul A. Cosenza is recalled and further examined in his own behalf.

Dorothy Cosenza is now sworn and examined on behalf of defendant.

The following defendant's witnesses are sworn and examined:

Mark A. Cosenza,  
Hazel Hyatt,  
Woodrow S. Duke.

Counsel for defendant states defendant's other witnesses are not present and rests with reservation that said witnesses may be called later and it is so ordered.

Rebuttal

The following Government's witnesses are sworn and examined:

Charles M. Hemphill,  
William F. Connor.

Harry Roberts, heretofore sworn, is called and examined on behalf of the Government.

Lona Lane, heretofore sworn, is called and examined on behalf of the Government.

Fred Nichols, heretofore sworn, is recalled and further examined on behalf of the Government.

And the Government rests.

And thereupon, at 11:45 o'clock a.m., It Is Ordered that the further trial of this case be continued until 2:00 o'clock p.m., to which time the jury, being first duly admonished by the court, the defendant and counsel are excused.

Subsequently, at 2:00 o'clock p.m., the jury and all members thereof, the defendant and counsel for respective parties being present pursuant to recess, further proceedings of trial are had as follows:

### Defendant's Case Continued

The following defendant's witnesses are sworn and examined:

R. O. Barrett,  
Harry L. Nace,  
Edwin Beauchamp.

And the defendant rests.

Both sides rest.

Counsel for defendant now moves for judgment of acquittal as to count 1 of the Indictment on account of insufficient evidence; and moves for dismissal of count 2 on ground it fails to state an offense and moves for judgment of acquittal on said count 2 on account of insufficient evidence.

It Is Ordered that said motions be and they are denied.

All the evidence being in, the case is argued by respective counsel to the jury. Whereupon, the court duly instructs the jury and said jury retire at the hour of 4:00 o'clock p.m. in charge of sworn bailiff to consider of their verdict.

Subsequently, at 6:20 o'clock p.m., the defendant and all counsel being present, the jury return in a body into open court and all members thereof being present, are asked if they have agreed upon a ver-



dict. Whereupon, the Foreman reports that they have agreed and presents the following verdict:

\* \* \*

[To avoid duplication, a copy of the verdict which is recorded on the original minutes is not set forth here, the same being an exact copy of the signed original thereof which follows.]

The verdict is read as recorded and no poll being desired by either side, the jury is discharged from the further consideration of this case and excused until further order.

It Is Ordered that this case be and it is set for sentence April 23, 1951, at 10:00 o'clock a.m., and that the defendant be committed to the custody of the United States Marshal and his bond exonerated.

---

[Title of District Court and Cause.]

### VERDICT

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find the defendant, Raoul A. Cosenza, Guilty as charged in count 1 of the Indictment, Guilty as charged in count 2 of the Indictment.

/s/ FLOYD HARLEY CLARK,  
Foreman.

[Endorsed]: Filed April 13, 1951.

Subsequently, at 2:00 o'clock p.m., the jury and all members thereof, the defendant and counsel for respective parties being present pursuant to recess, further proceedings of trial are had as follows:

### Defendant's Case Continued

The following defendant's witnesses are sworn and examined:

R. O. Barrett,  
Harry L. Nace,  
Edwin Beauchamp.

And the defendant rests.

Both sides rest.

Counsel for defendant now moves for judgment of acquittal as to count 1 of the Indictment on account of insufficient evidence; and moves for dismissal of count 2 on ground it fails to state an offense and moves for judgment of acquittal on said count 2 on account of insufficient evidence.

It Is Ordered that said motions be and they are denied.

All the evidence being in, the case is argued by respective counsel to the jury. Whereupon, the court duly instructs the jury and said jury retire at the hour of 4:00 o'clock p.m. in charge of sworn bailiff to consider of their verdict.

Subsequently, at 6:20 o'clock p.m., the defendant and all counsel being present, the jury return in a body into open court and all members thereof being present, are asked if they have agreed upon a ver-



dict. Whereupon, the Foreman reports that they have agreed and presents the following verdict:

\* \* \*

[To avoid duplication, a copy of the verdict which is recorded on the original minutes is not set forth here, the same being an exact copy of the signed original thereof which follows.]

The verdict is read as recorded and no poll being desired by either side, the jury is discharged from the further consideration of this case and excused until further order.

It Is Ordered that this case be and it is set for sentence April 23, 1951, at 10:00 o'clock a.m., and that the defendant be committed to the custody of the United States Marshal and his bond exonerated.

---

[Title of District Court and Cause.]

### VERDICT

We, the Jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find the defendant, Raoul A. Cosenza, Guilty as charged in count 1 of the Indictment, Guilty as charged in count 2 of the Indictment.

/s/ FLOYD HARLEY CLARK,  
Foreman.

[Endorsed]: Filed April 13, 1951.

In the United States District Court  
For the District of Arizona

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

MINUTE ENTRY OF  
MONDAY, APRIL 23, 1951

This case comes on regularly for sentence this day. The defendant is present in person with his counsel, George Sorenson, Esquire, and is advised by the Court of his right to make a statement in his own behalf and to present any information in mitigation of punishment. Thereupon, the Court finds that no legal cause appears why judgment should not now be imposed and renders judgment as follows:

[To avoid duplication, a copy of the Judgment and Commitment which is recorded here on the minutes is not set forth here, the same being an exact copy of the signed original thereof which follows.]

\* \* \*

In the District Court of the United States  
For the District of Arizona  
No. C-9426 Phoenix

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.

RAOUL A. COSENZA,  
Defendant.

### JUDGMENT AND COMMITMENT

On this 23rd day of April, 1951, came the attorney for the Government and the defendant appeared in person and by counsel.

It Is Adjudged that the defendant has been convicted upon his plea of not guilty and a verdict of guilty of the offense of violating Title 18, United States Code, Section 2315 (receiving stolen property in interstate commerce), as charged in count 1 of the Indictment, and Title 18, United States Code, Section 4 (Misprision of felony), as charged in count 2 of the Indictment.

The Court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court, It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of three (3) years.

It Is Ordered that the Clerk deliver a certified

copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Dated at Phoenix, Arizona, this 23rd day of April, 1951.

/s/ DAVE W. LING,

United States District Judge.

[Endorsed]: Filed and Docketed April 23, 1951.

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[Title of District Court and Cause.]

### NOTICE OF APPEAL

Name and Address of Appellant: Raoul A. Cosenza, 4400 North 20th Street, Phoenix, Arizona.

Name and Address of Appellant's Attorney: Ira J. Bergman, Nicholson Building, 32 North Central, Phoenix, Arizona.

Offense: Violation 18 U.S.C.A. 2315 and 18 U.S.C.A. 4.

Date of Judgment and Sentence: April 23, 1951.

Brief Description of Judgment and Sentence: Found guilty as charged in both counts of the indictment and sentenced to Three (3) years imprisonment in a Penitentiary to be designated by the Attorney General.

Defendant now in the custody of the United States Marshal, confined in the Maricopa County jail, Phoenix, Arizona.

I, the above-named appellant, hereby appeal to

the United States Court of Appeals for the Ninth Circuit from the above-stated judgment.

Dated this 27th day of April, 1951.

/s/ RAOUL A. COSENZA,  
Appellant.

/s/ IRA J. BERGMAN,  
Attorney for Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed April 27, 1951.

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[Title of District Court and Cause.]

ELECTION NOT TO COMMENCE  
SERVING SENTENCE

Pursuant to Rule 38 (a) 2, Federal Rules of Criminal Procedure, notice is hereby given by the defendant-appellant, Raoul A. Cosenza, that he elects not to commence serving his sentence imposed by the Court in the above-entitled and numbered action pending his appeal to the United States Court of Appeals for the Ninth Circuit.

Dated at Phoenix, Arizona, this 15th day of May, 1951.

/s/ RAOUL A. COSENZA,  
Defendant-Appellant.

/s/ IRA J. BERGMAN,  
Attorney for Defendant-  
Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed May 15, 1951.

In the United States District Court  
For the District of Arizona

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

MINUTE ENTRY OF  
MONDAY, MAY 28, 1951

Motion of Defendant for New Trial on grounds of Newly Discovered Evidence and Motion of Defendant for Order Fixing Bail Pending Appeal come on regularly for hearing this date. E. R. Thurman, Esquire, Assistant United States Attorney, appears for the Government. Ira Bergman, Esquire, is present for the defendant.

Counsel for defendant now submits said motions and counsel for the Government files Government's Response to Motion for New Trial.

Counsel for defendant moves for 60-day extension of time to file Record on Appeal in Court of Appeals.

It Is Ordered that the record show said motions are submitted.

In the United States District Court  
For the District of Arizona

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

MINUTE ENTRY OF  
TUESDAY, MAY 29, 1951

It Is Ordered that the time to file the Record on  
Appeal and docket the appeal herein in the United  
States Court of Appeals for the Ninth Circuit be  
extended to and including July 6, 1951.

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In the United States District Court  
For the District of Arizona

Honorable Dave W. Ling, United States District  
Judge, Presiding.

[Title of Cause.]

MINUTE ENTRY OF  
FRIDAY, JUNE 1, 1951

It Is Ordered that Defendant's Motion for New  
Trial on Grounds of Newly Discovered Evidence  
be and it is denied, and

It Is Further Ordered that Defendant's Motion  
for Order Fixing Bail Pending Appeal be and it is  
denied.



United States Court of Appeals, Ninth Circuit  
C-9426 Phx.

RAOUL A. COSENZA,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

### ORDER

This matter came to be heard upon the appellant's petition for bail pending appeal. Upon hearing the motion, which was not opposed by the United States Attorney, the Court required the appellant to supply it with a copy of the transcript of the testimony in the trial court as soon as the same should be available, and the motion was submitted to the Court to be considered upon the motion papers and upon the transcript when supplied. Thereafter a transcript of the testimony was lodged with the Court and has been examined in connection with the motion. After due consideration of the same,

It Is Ordered that the appellant be admitted to bail pending a consideration of his appeal to this Court, such bail to be fixed in the amount of \$10,000, the same to be presented to and approved by the United States Attorney and the Judge of the District Court.

HOMER T. BONE,

WM. E. ORR,

WALTER L. POPE,

United States Circuit Judges.

[Endorsed]: Filed U.S.C.A. June 22, 1951.

[Endorsed]: Filed U.S.D.C. June 25, 1951.



In the United States District Court  
For the District of Arizona

No. C-9426 Phx.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAOUL A. COSENZA,

Defendant.

### REPORTER'S TRANSCRIPT

The above-entitled and numbered cause came on duly and regularly to be heard in the above-entitled court, before the Honorable Dave W. Ling, Judge, presiding with a jury, commencing at the hour of 10 o'clock a.m. on the 12th day of April, 1951.

The plaintiff was represented by Frank E. Flynn, United States Attorney, and E. R. Thurman, Assistant to the United States Attorney.

The defendant was represented by Messrs. George T. Wilson and George Sorenson of Messrs. Minne and Sorenson, Attorneys at Law, Phoenix.

The following proceedings were had:

The Clerk: C-9426, Phoenix, United States of America, Plaintiff, versus Raoul A. Cosenza, Defendant, for trial.

Mr. Thurman: The Government is ready.

Mr. Wilson: The defendant is ready, your Honor.

The Court: Call the names of 28 jurors.

(Whereupon 28 prospective jurors were called and took their places in the jury box.)

The Court: The case upon which you will be asked to qualify this morning is a criminal action entitled "United States of America against Raoul A. Cosenza."

The indictment returned against the defendant is in two counts. The first count charges that on or about the first day of December, 1949, in the City of Phoenix, State and District of Arizona, the defendant did unlawfully and feloniously, at one time, receive from one George Henry Booth, and conceal certain stolen jewelry, which is described, of the approximate value of \$25,000.00, said jewelry having theretofore been stolen in Oklahoma City, State of Oklahoma, and transported in interstate commerce from the said Oklahoma City, Oklahoma, to Phoenix, Arizona, and that Cosenza then and there knew that said jewelry had been stolen.

Now the second count charges that on or about the first day of October, of the same year, [2\*] 1949, in the State and District of Arizona, one George Henry Booth actually committed a crime in violation of Title 18 U.S.C.A., 2314, a felony cognizable by a court of the United States, in that the said Booth did, on or about the said first day of October, 1949, transport and cause to be transported in interstate commerce, at one time, this same jewelry from Oklahoma City, State of Oklahoma, to the City of Phoenix, and that the said defendant, Cosenza, having actual knowledge of the commission of said felony as above set forth, did, on or about the first

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\* Page numbering appearing at top of page of original Reporter's Transcript of Record.

day of December, 1949, in the State and District of Arizona, unlawfully and feloniously conceal the commission of said federal offense and did not, as soon thereafter as possible, in the State and District, make known the same to a judge or other person in civil or military authority under the United States of America.

(Thereupon 28 prospective jurors were called and sworn by the Clerk to answer well and truly questions touching upon their qualifications, and after being examined on their voir dire, a jury of 12 was duly empaneled and sworn to try the cause.

(Thereupon the following proceedings were had:) [3]

The Court: You may call your first witness.

Mr. Thurman: George Young.

Mr. Wilson: If the court please, at this time may we ask that the rule be invoked on all witnesses?

The Court: All right, both sides call your witnesses.

(Witnesses for both sides were thereupon called, duly sworn by the Clerk, admonished by the court and dismissed from the court room.)

## GEORGE YOUNG

was called as a witness on behalf of the Government, and being first duly sworn testified as follows:

## Direct Examination

By Mr. Thurman:

Q. Will you please state your name?

A. George Young.

Q. You are a member of the Police Department of the City of Phoenix, Arizona?

A. I am, yes, sir.

Q. How long have you been such member of the Police Department in the City of Phoenix, Arizona, Mr. Young?      A. 13 years. [4]

Q. Say, during the last four or five years, what has been your particular responsibilities in the City of Phoenix Police Department?

A. I am captain of the detectives, Police Department.

Q. What about the property that may be placed with the officers of the City of Phoenix?

A. I have charge of all of the property that comes into the police channels in Phoenix.

Q. You are known as the custodian, is that the proper word?

A. Well, yes, it is under my jurisdiction.

Q. And when property is delivered to you as such custodian, what do you do?

A. We file it and put it away for safe keeping.

Q. Who has charge of it; that, is the physical possession of it?

A. The physical possession is Charles Sittenfeld.

(Testimony of George Young.)

Q. Is it kept under lock and key?

A. Yes, sir.

Q. Were you subpoenaed here as a witness to bring certain exhibits this morning?

A. I was, yes, sir.

Q. Did you bring them?           A. I have. [5]

Q. You have them with you, have you?

A. I have.

Q. May I look at them?

(Thereupon numerous articles were handed by the witness to Mr. Thurman.)

Q. (By Mr. Thurman): Who put these seals on the outside of this Government's Exhibit 1 for Identification?           A. Who put the seals on?

Q. Yes.           A. I don't know.

Mr. Thurman: Mark this.

(Thereupon the document was marked as Government's Exhibit 1 for Identification.)

Mr. Thurman: I hand you Government's 1 for Identification and ask you to examine it.

A. You wish me to open it?

Q. Well, you know the contents of the package, do you not?           A. Yes, sir.

Q. All right. Now, is that package and the contents, can you tell the court and jury whether or not they were kept under your supervision and direction?           A. They were.

Q. All right. Please open the package. [6]

(The witness complies.)

(Testimony of George Young.)

Q. (By Mr. Thurman): Now, where did you receive the contents of that package?

A. The contents of this package were turned over to me by my Detectives Roberts and Nichols.

Q. What are their full names?

A. Harry Roberts and Fred Nichols.

Q. They are in the court room now; that is, they were here as witnesses this morning and were sworn?

A. That is right.

Q. And after you got possession of it what did you do with it?

A. They have been kept in the vault with the exception of two occasions. They were taken out to the Bureau of Investigation who had them in their possession on both occasions.

Q. And did you accompany the exhibits at both times?

A. We turned them over to them, that is all.

Q. And were they taken before the Grand Jury, do you know?

A. They were.

Q. Who had them there?

A. I had them.

Q. And are they practically in the same [7] condition now at this time as they were at the time you received them from the officers whose names you mentioned?

A. They appear to be, yes, sir.

Q. Where did you receive them from the two officers you mentioned?

A. In the Detective Bureau, Phoenix.

Mr. Thurman: Please mark these purported



(Testimony of George Young.)

bracelets in Government's Exhibit 1 for Identification.

(Thereupon the articles were marked as Government's Exhibit 1-A and 1-B for Identification.)

Mr. Thurman: 1-C for Identification is a watch with band; 1-D for Identification is a spray; 1-E for Identification is a bracelet or necklace.

(Thereupon the articles were marked as Government's Exhibits 1-C, 1-D and 1-E for Identification.)

Q. (By Mr. Thurman): Then, Mr. Young, you are familiar with these exhibits?

A. I am, yes, sir.

Q. You had them in your care and custody for practically how long a time?

A. Oh, I have had them since May, 1950. [8]

Q. And these are the same ones you had before the Grand Jury?

A. They are, yes, sir.

Mr. Thurman: You may cross-examine.

### Cross-Examination

By Mr. Wilson:

Q. Do I understand, Captain, that your first knowledge of these various exhibits that have been shown to you comes through their having been delivered to you by your subordinates, your detectives?

A. That is right.

Q. And they have not been in your custody continuously since that time?

(Testimony of George Young.)

A. They were taken out on two occasions. If I recall, it was in June of '50 and then they were——

Q. (Interrupting): In whose custody were they then?

A. The Federal Bureau of Investigation.

Q. And sometime later——

A. (Interrupting): They were taken out again in January in the same custody.

Q. And then upon each occasion they were delivered back, were they, to you personally? [9]

A. They were.

Q. You say you don't know who put the seals on that box that you identified?

A. No, sir; I don't.

Q. The one having actual physical custody of the particular exhibits in your department, however, is Charles Sittenfeld?      A. That is right.

Q. He is actually the custodian of property of this nature?      A. That is right.

Q. He is under your jurisdiction, in that he comes under the Detective Bureau, is that right?

A. That is right.

Mr. Wilson: That is all.

Mr. Thurman: That is all for this time. I may have to recall this witness later, your Honor.

(The witness was excused.)

Mr. Thurman: Mr. Tom Chauncey.



TOM CHAUNCEY

was called as a witness for the Government, and being first duly sworn testified as follows: [10]

Direct Examination

By Mr. Thurman:

Q. Mr. Chauncey, where do you live?

A. Adams Hotel.

Q. How long have you lived in Phoenix, Arizona?      A. 25 years.

Q. 25 years?      A. Yes, sir.

Q. And what is your business or profession, Mr. Chauncey?

A. I am in the jewelry business.

Q. How long have you been in that business in Phoenix, Arizona?      A. In my own business?

Q. Well, in the jewelry business?

A. About 25 years—24 years.

Q. You say you have been in your own business, too?      A. Yes, sir.

Q. How long have you been in that?

A. 11 years.

Q. Where is your store located, your place of business?      A. 40 East Adams Street.

Q. And during these many years have you [11] had occasion as a dealer in jewelry to handle precious stones?      A. Yes, sir.

Q. Jewelry of all kinds, have you?

A. Yes.

Q. You are experienced in the prices of such merchandise in this vicinity?      A. Yes, sir.

(Testimony of Tom Chauncey.)

Q. Have you had occasion to examine the exhibits that I hold in my hand, being Government's Exhibits 1-A to E for Identification, have you ever seen these before?      A. Yes, sir.

Q. And when was it that you saw them?

A. I don't know the dates that I saw them. I was called to examine them sometimes ago over at the City Hall in the Police Department.

Q. And did you make an examination at that time?      A. Yes, sir; I did.

Q. And you are sure these are the same pieces of jewelry that you examined at that time in the City Hall?      A. Yes, sir.

Q. And did you come to any valuation of the particular jewelry? [12]

A. Yes, we made a list, I believe, at the time on all of these pieces.

Q. Have you got that list?

A. No, sir; I don't.

Q. Do you identify the jewelry?      A. Yes.

Q. Do you remember what price you fixed on them?      A. No, sir; I don't.

Q. Do you want to refresh your memory from the——      A. (Interrupting): Yes, sir.

Q. I don't know where the slip is. Do you know who you turned the slip over to?

A. I believe Captain Young, or I believe it was some gentleman from the FBI.

Q. You would know if you saw it again, this slip?      A. Yes, sir.

(Testimony of Tom Chauncey.)

The Court: In your opinion, were they worth more than \$5,000.00?

A. Yes, sir.

The Court: Would you gentlemen stipulate that the exhibits are worth more than \$5,000.00?

Mr. Wilson: Your Honor, I would not impede the progress of the trial, but I have never seen [13] the stuff myself, I haven't any idea what it is.

Mr. Thurman: I don't think you could qualify as an expert anyhow, can you, George? Could you examine them now and tell us the approximate value of these particular pieces of jewelry that you hold in your hand?

The Witness: Well, it would be in excess of \$5,000.00.

Mr. Thurman: You may cross-examine.

Mr. Wilson: No cross-examination.

The Court: We will have our morning recess at this time. During the recess do not discuss the case among yourselves nor permit anyone to discuss it with you, also avoid forming or expressing any opinion upon any subject connected with it. We will recess for five minutes.

(Thereupon a short recess was taken.)

(After recess, all parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:)

Mr. Thurman: George Henry Booth.

## GEORGE HENRY BOOTH

was called as a witness on behalf of the Government, and being first duly sworn testified as follows: [14]

## Direct Examination

By Mr. Thurman:

Q. You are George Henry Booth, are you not?

A. Yes, sir; I am.

Q. And you have been in this court before?

A. Yes, sir.

Q. Now, are you acquainted with the defendant in this case, Raoul A. Cosenza, who sits there with his lawyers?

A. Yes, sir; I am.

Q. How long have you known the defendant, Booth?

A. Well, I met him sometime around in '47 or '48; the first part of '48 or '47.

Q. Where?

A. Well, he was bartending at a bar used for a club out on Washington—East Washington beyond Tovrea's.

Q. In Maricopa County?

A. Yes, sir; in Maricopa County.

Q. And you continued your relationship from that time on up until practically a year ago?

A. Yes, sir; on and off.

Q. And with respect to the middle of '49, what was your association with the defendant, if any?

A. Up until '49?

Q. Yes, about that time, what was your association?

(Testimony of George Henry Booth.)

A. Well, the association with him was selling liquor licenses part of the time.

Q. And after that what took place?

A. Well, along about August, I believe it was, in '49, I saw him and had a meeting with him.

Q. Now, was this the first meeting you are going to tell us about now?

A. Well, yes, respect to this case.

Q. About when was that, did you say?

A. Around August or September.

Q. '49? A. Yes.

Q. And where, can you tell us, did that meeting take place?

A. Well, I don't remember. I met him at two or three places. One of them, of course, at the Jefferson Bar. I met him there a couple of times.

Q. Here in Phoenix, Arizona?

A. Yes, Phoenix, Arizona.

Q. Who was with you at that time besides yourself and Cosenza, if anyone?

A. Well, one time I believe Lona Lane was [16] with me once or twice. Of course, I was there by myself too.

Q. At this Jefferson Bar, what was Cosenza doing there at that time and place, if you know?

A. Well, he was getting ready to open this bar. I can't remember at the time whether he had it open or not at that time.

Q. Did you have any discussion with him at that time concerning the facts of this case?

A. Well, yes, I did.

(Testimony of George Henry Booth.)

Q. And where did that take place?

A. Well, I believe it was at this bar. I believe he was working at the bar, or something, getting ready to open it or something.

Q. About what time of the day was that?

A. Well, sir, I couldn't say what time of the day.

Q. What was the nature of this conversation?

Mr. Wilson: Well, we object until a more definite time is fixed. It is rather vague.

Q. (By Mr. Thurman): Can you fix it in more detail as to the time and place of this conversation?

A. Well, this one conversation was around that time, August or September, at this bar, I believe. It was about—let's see, well, I couldn't say what time of day it was, whether it [17] was in the evening or morning. I believe it was in the morning, though.

Q. In the morning?

A. I believe, yes, sir.

Q. About what month was it?

A. In August or September.

Q. In the latter part of August?

A. I'd say around that time.

Q. Do you know who was there besides yourself and Cosenza, if anyone?

A. Well, I can't remember, no, at that meeting. I believe him and I talked alone on that.

Q. What was the substance of that conversation?

A. Well, I told him I was planning on going to the east and see if I could pick up some jewelry,



(Testimony of George Henry Booth.)

I mean, burglarize some places and get some jewelry and I asked him if he thought he might be able to get rid of it. He said he could if I could get anything worthwhile.

Q. And when you said, "to get jewelry," what kind of jewelry did you have in mind?

A. Well, I had in mind diamonds and like that, diamonds, precious stones.

Q. Were you going to buy them?

A. No, sir. I told him and explained to him that I was going to burglarize, have to get [18] them in burglaries.

Q. And then what took place after that meeting between you and Cosenza?

A. Well, as I can remember, shortly after that, I may have seen him a time or two, but then after that I left for Oklahoma.

Q. Did you ever see the defendant out at 24th Street and Camelback Road? A. Yes, I did.

Q. And at what place in that vicinity did you see him?

A. I believe he was bartending out there at this Corral—it used to be the Corral, or something like that, on 24th and Camelback Road.

Q. When was it did you see him out there?

A. I think it was in August or September. I believe he was getting ready to open that bar and that is when Lona Lane was with me.

Q. Did you discuss the facts of that matter with the defendant at that time and place?

A. I think I did, yes, sir—yes, everytime I saw

(Testimony of George Henry Booth.)

him I talked with him about it, something about it.

Q. When you talked to him, when Lona Lane was there, just what part of the premises did you hold this conversation with the defendant? [19]

A. At the bar.

Q. Was Lona Lane right there?

A. Well, she was, yes, sir, sitting there.

Q. She didn't enter into the discussion, did she?

A. Well, I don't remember whether she did or not.

Q. And at this particular time what was the substance of your conversation with the defendant with respect to this jewelry, if any?

Mr. Wilson: Could we have the date, your Honor, more definitely fixed?

The Court: Well, you could have if he could remember it, but he says it was along in August or September, that is his best recollection. That is all any witness can testify to. Go ahead.

(The question was read by the reporter.)

The Witness: Well, the same conversation, that I was planning on going on, I think, to the East and see if I could get some jewelry, if he could handle it, just like he always told me: "Anytime you get anything. I can help you get rid of it, I can help you merchandise it."

Q. (By Mr. Thurman): You didn't have any of that jewelry with you at that time?

A. No, sir; I didn't at that time. [20]

Q. When did you see the defendant again, if



(Testimony of George Henry Booth.)

you did, subsequent to the time that you—subsequent to the two times that you have mentioned?

A. Well, as I remember, that is the only place I saw him is there and down to the Jefferson Bar. I might have met him on the street a time or two. I can't remember.

Q. Did you ever leave for the East, as you say, after these conversations with the defendant?

A. I did, yes.

Q. And who did you go with?

A. Well, I and Oliver Wheeler.

Q. And who was Oliver Wheeler?

A. Well, he was, at that time he was with me, I mean, on these burglaries. He was committing these burglaries with me, in other words, a partner.

Q. Did he leave with you from Phoenix?

A. He did, yes.

Q. Where did you and Wheeler go?

A. Well, we left Phoenix and we went to, almost direct to Oklahoma City.

Q. Now, about what time did you leave Phoenix for Oklahoma City with this man Miller?

A. Sir, I couldn't remember that.

Q. Was it—can you give us the month? [21]

A. Well, I believe it was in September.

Q. September?

A. Yes, it was in September.

Q. How did you go from here to Oklahoma City, the two of you? A. Drove.

Q. In an automobile? A. Yes.

Q. And when did you get to Oklahoma City?

(Testimony of George Henry Booth.)

A. Well, it was along the latter part of September. I can't remember the date of that, the latter part of——

Q. (Interrupting): After you and this man, what did you say his name was?

A. Wheeler, Oliver Wheeler.

Q. I called him "Miller" a minute ago. After you and Wheeler got to Oklahoma City—that is in the State of Oklahoma? A. Yes.

Q. What did you do?

A. Well, there were, I think we stayed—well, I think the first night we went into Oklahoma City we went to the residential district, this Country Club residential district and looked these houses over and that night committed just one burglary, this Cosmer residence in Oklahoma [22] City.

Q. Who went in the house, you?

A. No sir; I didn't go in the house. That fellow went in the house and I waited in front, around the block and he brought out a small safe and then we loaded the safe, took the safe to the country and the next day we went back and broke the safe open and removed the jewelry.

Q. And when you left Phoenix with Wheeler, you didn't have the safe with the jewelry in it, did you? A. No, sir.

Q. When Wheeler left you to enter this home he didn't have any safe with him or any jewelry, did he? A. No.

Q. You know that of your own knowledge?

A. I am positive, yes, sir.

(Testimony of George Henry Booth.)

Q. Now, after the safe was obtained and broken open, as you have stated, what did you find in it?

A. Well, there were several pieces of jewelry, I figure about 25 or \$30,000.00 worth of jewelry.

Mr. Wilson: We object to that as giving an opinion and he is not qualified.

The Court: Well, maybe he is qualified. He [23] has been a burglar long enough.

Mr. Wilson: I don't know. This appears to have been his first experience, according to his testimony.

Mr. Thurman: As far as this case. I was just trying to limit it but we can get into the rest of it if he wants to, your Honor, we will be glad to.

The Court: All right, go ahead.

Q. (By Mr. Thurman): I am sure he won't be alone in it. I hand you Government's Exhibits 1-A to E for Identification and ask you to examine them.

A. Yes, sir.

Q. Now, have you ever seen that jewelry before?

A. Yes, sir.

Q. Where was the first time you saw it?

A. I saw these when I opened the safe out of the Cosmer residence in Oklahoma City.

Q. And was all of that jewelry found in that particular safe that you have mentioned?

A. It was, yes, sir.

Q. And are you familiar with jewelry and diamonds, stones?

A. Well, yes, sir; some.

Q. And have you had occasion to handle a good deal of it? [24]

A. Well, I have, yes, sir.

(Testimony of George Henry Booth.)

Q. And you had occasion to dispose of it, sell it?

A. I have, yes, sir.

Q. And during these several years have you had some idea of the price of jewelry that was stolen?

A. Yes, sir; I have a pretty close idea.

Q. And can you give the court and the jury your value of the exhibits I handed you?

Mr. Wilson: We object on the ground the witness is not qualified to testify as to the value.

The Court: Go ahead.

A. Yes, sir; I could, I could give you an approximate value.

Q. (By Mr. Thurman): What do you say it was worth?

A. I would say it would be roughly worth about \$25,000.00.

Q. That is the same testimony you gave before the Grand Jury, wasn't it?

A. I believe it was, yes, sir.

Mr. Wilson: We object to that, if the court please.

The Court: Yes.

Q. (By Mr. Thurman): Well, after you obtained this jewelry from the safe, what did you do with the [25] safe?

A. Well, I left the safe there and I just took the jewelry along.

Q. You say you took the jewelry along. Where did you take it to?

A. I took the jewelry with me and brought it back to Arizona.

(Testimony of George Henry Booth.)

Q. Now, when you speak of the jewelry, you mean this jewelry here, these exhibits I handed you, five pieces?

A. Yes, sir. Of coures, there was more jewelry, but that was among them.

Q. That was among them?           A. Yes.

Q. Where were you going with this jewelry after you left Oklahoma and brought—after you left Oklahoma with it?

A. Well, I was coming back to see Cosenza about it, see if it could be—we could merchandise it.

Q. And then if nothing was done in Arizona what were you going to do about it?

A. Well, I figured that he had had a deal for me on it. In other words, I had it in mind of merchandising it to him.

Q. What took place after you got to Phoenix?

A. Well, I didn't show him the jewelry at the time I came back. I told him I did have it.

Q. Where was it that you told him you had it?

A. I believe it was at this bar, the Jefferson Bar.

Q. At the Jefferson Bar?           A. Yes, sir.

Q. And about when was that? .

A. Well, around October, I believe we came back in October, maybe the middle or the last, something like that.

Q. Can you give the court and jury an idea as to the date of the burglary?

A. I believe it was along the last part of September.



(Testimony of George Henry Booth.)

Q. Then where did you go with the jewelry; did you come straight to Phoenix with it?

A. Well, I came to Texas and then to Phoenix, yes, sir.

Q. What time did you land in Phoenix with the jewelry?

A. Well, I couldn't say exactly what time.

Q. Can you give us an idea of the month?

A. It was around October sometime, along the last part of October is my best recollection. [27] I think that is about right, October.

Q. Just tell us what took place at that time with respect to this jewelry.

A. Well, I talked to him about the jewelry and told him I had it and he said he hadn't anyone lined up right at that time, and we talked about it a little and I said, "Well, I am planning on making another trip back," I was thinking about making another trip back. He said, "That is all right, that is all right, and get what you can get and I will have a market for it and sell the whole thing," so then I went back.

Q. Did you go back?

A. Yes, sir; I did, we went through Texas and Oklahoma and various parts of Texas, Oklahoma, Tulsa and different cities.

Q. Did you ever return to Phoenix?

A. Yes, I did.

Q. About when?

A. Around about the last of November.

Q. Of what year?           A. '49.

(Testimony of George Henry Booth.)

Q. And did you see Cosenza when you got back in '49?      A. I did, yes, sir.

Q. When? [28]

A. I saw him at this bar, the Jefferson Bar at that time.

Q. And what took place between you and Cosenza at that time?

A. Well, I told him I had this jewelry and, altogether that I did have, if I remember right, approximately 50 or \$60,000.00 worth of jewelry altogether.

Q. What did he say in response to this?

A. Well, he said he had been doing some looking around, he had a couple of men in mind to show it to.

Q. Then what took place?

A. Well, he wanted to take it and sell it piece by piece, I guess, first, and I——

Mr. Wilson: (Interrupting) May we have the conversation, please, instead of a conclusion of the witness.

Q. (By Mr. Thurman): What did he say, in substance?

A. Well, as I remember, he said, well, he says, "I have some men in mind, some parties in mind, and if you want to sell it," he says, "we could make a deal on it," and he said he wanted to know what his commission would be. I told him "Well, you know me? It would be right," and we did have some conversation about what the [29] percentage it would be, but I don't remember what



(Testimony of George Henry Booth.)

that was, and so then he said he had arrangements made to show this to a fellow by the name of Skipper, I mean, Skipper's Bar, I believe it was, and he wanted to know when I could get the jewelry. I told him I had it in a certain place and if he would meet him, I would meet him at this place, I mean, I would get the jewelry and meet him at this place and he could look it over and take what pieces he wanted to show as a sample, so he met me at this West Madison Street address, him and this Lona Lane, and he looked over all I had there and said he would pick out these pieces, these particular pieces that he thought he would like to show them.

Q. (By Mr. Thurman): Were they packed in anything at that time?

A. Well, at that time, I can't remember. They were in a sack, I believe. I believe they were in a paper sack, all of it.

Q. After you showed him these pieces at this address, did you say?

A. Well, I believe it was on West Madison, the 1500 block, I believe it was.

Q. Here in Phoenix, Arizona?           A. Yes.

Q. Then what took place?

A. Well, I showed him—of course, he picked out these few pieces he wanted to show as samples, to show the man that they were all right, and I told him, I said, "Well, you know, I don't want anything to do with this stuff." He said, "That is all right, I will carry it," and I left my car there and

(Testimony of George Henry Booth.)

he selected these pieces and put them in his pocket and we came downtown and we rode down in a white Buick.

Q. Who had the white Buick?

A. Mr. Cosenza, and we rode downtown in that Buick and he put them in his pocket. He parked in a parking lot and he took it into Skipper's place.

Q. And do you remember what day that was?

A. Well, sir, I don't remember exactly. I think it was along—I can only give you approximately, around the first of December.

Q. Of what year?           A. Of '49.

Q. Now, about what time of day was it that you went into this—that you or Cosenza went into Skipper's Bar here in Pheniox, Arizona?

A. Well, sir, it was—that, I could think pretty close. It was around one o'clock. [31]

Q. Now, tell the court and jury, if you can, where this Skipper's Bar is located that you mentioned.

A. Well, I don't know, I don't remember. It is, I believe, on Monroe or Adams right off Central, Skipper's Bar and Buffet, west.

Q. Who went in first, into Skipper's?

A. Well, we walked in together like and I waited in the front.

Q. Whereabouts in the front did you wait?

A. Well, sir, I waited in the front end of the bar or the tables, I can't remember, but I sat there and waited for him. He went in to see Skipper.

Q. Just where did Cosenza go?

(Testimony of George Henry Booth.)

A. Well, he went into a private office in the back, into Skipper's office while I waited in the front.

Q. Did you see anybody in the front bar?

A. Well, yes, there was. There was a bartender there, I believe one or two bartenders, that, I can't remember. There was one, I know, was in there, and probably two or three people.

Q. Did you see that bartender here this morning in the court room?

A. No, sir; I didn't pay any attention, I [32] didn't notice.

Q. After Cosenza went into this office, as you claim, Skipper's office, what took place?

A. Well, I waited approximately 15 minutes, maybe 20 minutes, something like that, and he came to the door and called me.

Q. Who did?

A. Cosenza did, and I went into the office, as I remember, and they had this jewelry on the table, on his desk.

Q. This jewelry here that is marked as Government's Exhibit 1 for Identification?

A. Yes, sir.

Q. One to——

A. Yes, sir. That was on the desk and so I asked him, I said, "Those fellows all right?" He said, "Yes. This is Skipper, he is all right," and he said he was interested in—Skipper started talking about the jewelry. He said he really wasn't in the jewelry business. He said he might be interested in a couple of pieces of it and wanted to know if it was local,

(Testimony of George Henry Booth.)

if it was hot, and I told him, no, it was from the East, that it was not from here, that he could feel sure it was all right, so they took a couple of pieces out for appraisal. [33]

Q. Who went out with the pieces?

A. Well, Skipper walked out with the pieces and Cosenza and I stayed in the office.

Q. And did this man Skipper come back in?

A. Who?

Q. Who did you say? A. Skipper.

Q. Do you know Skipper's right name?

A. No, sir; I don't.

Q. The man known as Skipper, then?

A. The man that owns Skipper's. I only know him as "Skipper," that is all.

Q. How long was he gone, if you remember?

A. Well, I suppose probably another 15 minutes—20 minutes, something like that.

Q. Did he ever return? A. Yes, he did.

Q. What took place after this man Skipper returned to this room where this jewelry was?

A. Well, I don't know. He talked something about the price some fellow had appraised it to him for, and he said he didn't know if he would be interested in it or not. Then he said he wanted, I believe at that time he was interested in a bracelet or a watch for his wife or daughter that was graduating, that is all he was interested [34] in. I told him I understood when I came there he was not interested in a piece or two, he was interested

(Testimony of George Henry Booth.)

in taking it all, that I was not interested in selling a piece or two, and he said, "Well, this fellow, the bartender in the front," he said, "He may be interested in one of these pieces," and I said, "Well, I don't want to fool with anybody unless I know he is all right, because this merchandise is hot, plenty hot." "Well," he said, "this fellow is all right, he worked for me for a couple of years," and he okayed him and Cosenza okayed him and said he was all right. I said, "Okay, if he is all right I might be able to talk to him," and so this fellow came in the office and he made about some sort of an offer for the pieces I had.

Q. Do you know whether or not he made a definite offer, or whether he just discussed it generally and left?

A. Well, I think he just discussed it generally and tentatively made an offer, I think, something like \$600.00 for the pieces, or something of the kind.

Q. How long did he stay in there?

A. Oh, possibly five minutes, a short time.

Q. Did you eventually leave then or not? [35]

A. Well, after I understood he wanted to fool around with it, buy a piece or two at a time, this fellow Skipper, I didn't like the idea very well anyway and I told Cosenza that I'd rather—better see if we could make a better deal, because I wasn't interested in that kind of set-up.

Q. Cosenza was there all of this time?

A. Yes, he was right there.

Q. Then what took place?



(Testimony of George Henry Booth.)

A. Then I told him. He said, "What do you want to do?" I said, "I had better go back to my car, take this back, and see what you can do." He said, "All right, I will see what I can do," and he tried to get me to give him a piece or two at a time, he wanted to sell a piece or two separately. I told him I would rather wait to get a deal.

Q. After you made up your mind to leave, as you stated, who left first, if you know?

A. Well, sir, I don't remember. I think that Cosenza and I walked out of the place there together, or him a little in front of me, or something of the kind with the jewelry. He had—still had the jewelry in his possession in his pocket. [36]

Q. Now, when this man Skipper left the place, as you stated, to have an appraisal of the jewelry, do you know where he went, of your own knowledge?

A. No, sir; I do not.

Q. You didn't see him after he left the door?

A. No, sir; I didn't.

Q. Now, when you left with Cosenza, did you see this bartender still at the bar as you went out, or did you notice him back of the bar?

A. Yes.

Q. The same man that had been in the room previously?

A. Yes, the same man.

Q. And he was the same bartender that was on duty when you went in, is that correct?

A. Yes, sir.

Q. Now, what happened after that with respect to the jewelry?

(Testimony of George Henry Booth.)

A. Well, of course, he wanted it in pieces and I refused to do that.

Mr. Wilson: Wait a minute, if the court please, that is not responsive to the question.

Mr. Thurman: That is right.

Mr. Wilson: I move that it be stricken.

Q. (By Mr. Thurman): What happened to the jewelry [37] after you and Cosenza left Skipper's?

A. Well, I took the —we went out to his Buick which was in the parking lot and then he took me back to my car.

Q. And where was your car?

A. My car was in the vicinity there of 17th and——

Q. (Interrupting): And who had the jewelry during the ride from Skipper's to where your car was? A. He had it in his pocket.

Q. Did you get the jewelry back from him at that time?

A. Yes, I did when he left me out at my car.

Q. Then what did you do with the jewelry?

A. Well, I took the jewelry, this jewelry and put it back with the other jewelry and put—hid it back.

Q. Then where did you go with it?

A. Well, I kept it there for some time, of course, while he was trying to make another deal——

Mr. Wilson (Interrupting): We object to that, if the court please, that is a conclusion of the witness and move that it be stricken and that the jury be instructed to disregard it.



(Testimony of George Henry Booth.)

The Court: All right. [38]

Q. (By Mr. Thurman): What can you tell the court and jury about this other deal you mentioned that Cosenza was trying to make for you? Did you have any conversation about that? If so, give us the time and the place.

A. Well, shortly after this first visit that I had he took me out—I think it was after that visit, he took me out to South Central and mentioned some fellow's name that he was talking to him about the jewelry.

Q. And what took place with respect to the jewelry there?

A. Well, I didn't have the jewelry there. We were only talking. Of course, he took me out to talk to the fellow and the fellow wasn't interested and he mentioned he had some more in mind. That is about all it amounted to. I wouldn't let him have it any more. He wanted it and to take it to be used as a sample and I wouldn't let him do that.

Q. What did you do with the jewelry?

A. Well, I believe after that I took the jewelry when I moved it from here. I moved it to California.

Q. Moved it to California? A. Yes, sir.

Q. These pieces here? A. Yes, sir.

Q. Contained in this Government's Exhibit 1-A to E? A. Yes, sir.

Q. And what part of California did you take it to? A. Took it to Los Angeles.

Q. How long did you stay in Los Angeles?

(Testimony of George Henry Booth.)

A. Well, I don't remember in Los Angeles, but until around May, I believe.

Q. May of '50? A. Yes, sir.

Q. And then what took—where did you go?

A. Then I took it to Reno.

Q. Reno, Nevada? A. Yes, sir.

Q. What did you do with it in Reno, Nevada?

A. Well, that is where they apprehended me there in Reno. I was trying to sell them in Reno there when they apprehended me.

Q. Did you have them on your person when you went in Reno? A. No, sir; I did not.

Q. Where were they?

A. Well, a part of them was with a club [40] owner there and the other half of them was buried about 12 miles out of town, had them buried on the highway.

Q. Who buried them? A. I did.

Q. Were any of these pieces in this Government's Exhibit buried at that time and place by you? A. Yes, they were.

Q. All of them?

A. Well, everything except the watch.

Q. Which watch?

A. The watch right there.

Q. The little one?

A. That one, yes, sir.

Q. And that would be Government's Exhibit 1-B for Identification?

A. Yes, sir. This watch was with the club owner, I believe, at the time, this along with some more.

(Testimony of George Henry Booth.)

Q. This particular set accompanied the other pieces of jewelry from Oklahoma City through Texas, Arizona, California and Nevada, is that right?

A. That is right, yes, sir.

Q. Now, who dug this jewelry up there in Nevada, if it was ever dug up? [41]

A. I did myself.

Q. How was it you came to dig it up?

A. Well, sir, after I was, of course, arrested, I came here and I wanted to clear my case up and so I decided to make all the restitution I could by turning this jewelry in and decided to make all the restitution I could and I turned it all up, dug it up.

Q. Did you go there alone and dig it up?

A. No, sir; I was with the officers that picked me up and arrested me.

Q. What officers took you there?

A. Officers Nichols and Roberts.

Q. Police officers?

A. Phoenix Police Department, yes.

Q. Did you take them out to where the place was?

A. Yes, sir, along with an FBI agent and I think the local sheriff there and a couple of other men.

Q. And after this particular jewelry was recovered, who took possession of it there, if you know?

A. Well, I believe the Officers Roberts and Nichols.

Q. Did you identify any of it at that time? [42]

(Testimony of George Henry Booth.)

A. Well, of course, I told them what I had buried there, and they, of course——

Mr. Wilson: (Interrupting): We object to this, if the court pleases. It would be, it seems to me, in the nature of hearsay evidence. It is out of the presence of this defendant. We object on the ground it is not competent evidence.

The Court: All right.

Mr. Thurman: And then after these officers received the jewelry what took place?

A. Well, they brought me—brought the jewelry back here to Phoenix, back to Phoenix, and me along with the jewelry, of course.

Q. Now, after you were brought to Phoenix by these two officers you have mentioned, what took place with respect to the jewelry and you?

A. Well, at that time I, of course, had some more in California which they recovered.

Mr. Wilson: We object to that, if the court please, not responsive to the question.

Mr. Thurman: Yes. To make it short, did you plead guilty to the transportation of the stolen jewelry in interstate commerce from the State of Oklahoma into the State of Arizona?

A. I did, yes, sir.

Mr. Wilson: I think the records of this [43] court here would be the best evidence as to whether he pleaded guilty.

Q. (By Mr. Thurman): Where are you now?

A. Well, I am in a Federal Penitentiary now.

Q. Which one?           A. Latuna.

(Testimony of George Henry Booth.)

Q. You were brought here by subpoena to testify?  
A. Yes, sir.

Mr. Thurman: You may cross-examine.

**Cross-Examination**

By Mr. Wilson:

Q. How old a man are you, Mr. Booth?

A. 36 years old.

Q. During the years '47 and '48, I believe you testified that you engaged in the business of buying and selling liquor license, is that right?

A. I believe in that time some, yes, the first part of '48 and '47.

Q. And on one occasion you became associated with the defendant, Mr. Cosenza, in the disposition of a liquor license, isn't that true?

A. Yes, sir; I was.

Q. You had a buyer for a liquor license, did you not, and Mr. Cosenza had one for sale, isn't [44] that true?  
A. No, sir.

Q. That is not true?

A. No, sir; we were together.

Q. At that time did you know this man that you identified as Skipper?

A. Yes, I had met him once.

Q. So that when you went into Skipper's place on December 1st, 1949, you needed no introduction to this man Skipper at all, did you?

A. I have been around Phoenix a lot of years. I know him but he didn't know me at that time. He didn't remember me, no.

(Testimony of George Henry Booth.)

Q. Well, in '48, then you did meet Cosenza first at a bar, the VFW, is that right?

A. I believe it was a bar on East Washington, yes.

Q. Was that a VFW club room?

A. I believe it was some sort of a club he had a license there.

Q. Are you a veteran?

A. No, sir; I am not.

Q. You were not a member of the VFW?

A. No, sir.

Q. You were taken there by some friend, is that right? [45]

A. No, some friend and I went there to see him.

Q. You closed your business with Mr. Cosenza in the sale or disposition of the liquor license, didn't you, back in '48?

A. We did make a deal, yes. Him and I, we both bought it and both sold it.

Q. Did you have any other similiar transaction with the defendant after that time respecting any other license?

A. We, of course, had several prospects and several buyers, but after that time I don't believe we sold any more licenses, that is, as far as I know about it, we didn't.

Q. What was your business then after the sale of this license?

A. Well, you mean after I quit selling licenses with Cosenza?

Q. No, around in '48.



(Testimony of George Henry Booth.)

A. At that time I was doing nothing.

Q. And I believe you testified you may have seen Mr. Cosenza after the sale of this license on one or two occasions up to '49?

A. Yes. I don't remember—let's see—yes, I did.

Q. And there was no intimate friendship [46] between you and the defendant, was there, Mr. Booth? It was a casual acquaintance that grew out of that business transaction and that is all, isn't that true?

A. Well, I wouldn't say that, no, sir.

Q. Well, according to your direct examination, then, your next definite contact that you can recall with Mr. Cosenza, the defendant, was sometime probably during the month of August, 1949, is that right?

A. No, sir.

Q. Well, what did you testify to about August, '49, on your direct examination here this morning?

A. Well, that I had a discussion with him about going to Oklahoma.

Q. Had you had any previous discussions with Mr. Cosenza about going to Oklahoma before that month?

A. Well, I don't remember whether I did or not.

Q. All right, and that conversation, you were of the opinion on your direct examination, took place possibly at the Jefferson Bar and possibly at the El Rancho?

A. Yes, sir; one of the two places, I believe.



(Testimony of George Henry Booth.)

Q. But you are rather vague as to which [47] one of the bars it actually occurred at, is that right?

A. Well, sir, I believe I am a little bit. I can't remember which bar it was. Definitely, we had a conversation.

Q. Did you open the conversation by making this proposal of going out and rob people or burglarizing houses, or did Mr. Cosenza make the proposition at that conversation in August?

A. Mr. Cosenza and I had talked about burglary and things like that before. In fact, we participated together in a little burglary.

Q. And you testified, did you not, in the preliminary hearing in this matter down before the United States Commissioner?

A. This matter?

Q. Yes, against Mr. Cosenza, didn't you?

A. I believe I did, yes.

Q. Did you ever make any statement like you just made from the witness stand now that he ever engaged in a burglary with you?

Mr. Thurman: I object to that as being irrelevant and immaterial and an improper manner of impeachment.

The Court: Yes.

Q. (By Mr. Wilson): What is your best recollection [48] both as to the date in August and as to the place where this conversation took place?

A. Well, I can't remember which place it was, sir.

(Testimony of George Henry Booth.)

Q. I see. Are you certain that you had such a conversation with Mr. Cosenza?

A. I am positive.

Q. Mr. Booth, do you remember contacting Mr. Cosenza during the month of July, '48 or '9—I beg your pardon, '49?

A. I believe I did around that date.

Q. You contacted him out at the El Rancho bar, did you not, during the month of July, '49?

A. I think so.

Q. And you had Mr. Cosenza cash a check for you at that time, didn't you, Mr. Booth?

A. Oh——

Q. (Interrupting): Now, could you answer that yes or not? Didn't he cash a check for you?

A. Yes, but he suggested me writing it and cashing it.

Q. And the check later bounced, to use the slang expression, didn't it?

A. He knew it was going to bounce.

Q. Answer the question, you know it bounced, didn't you? [49]

A. The check was never even put through, I don't think. I don't think. I don't know what he done with the check, but he knew it was no good when I gave it to him and he told me to put another name on it so he could run it through the bar.

Q. Is it a fact, Mr. Booth, that Mr. Cosenza never saw you after you passed that check on him until about the first of December down here at Skipper's in '49?

(Testimony of George Henry Booth.)

A. I did see him between that time, yes.

Q. But now you can't place where you saw him, whether at that bar or down at the Jefferson Bar after you passed that hot check on him?

A. I didn't pass a hot check on him.

Q. Well, after you passed that check?

A. After he gave me the money for the check after stating that I write the check and sign another name to it so he could run it through the bar.

Q. You can't recall whether you saw him after that time at the Jefferson Bar or back at the El Rancho, can you?

A. No, sir; I can't. I can't remember exactly which place.

Q. It wasn't at the time that you passed [50] that check that you told him of your intended burglaries in Oklahoma, was it?

A. I don't understand the question.

Q. It was not at the time you passed the check that you had this conversation with him about going to Oklahoma and committing burglaries?

A. It was not at that time, no, during the time of the check in July.

Q. I believe you testified that you went away with some gentleman and later came back to Phoenix from Oklahoma sometime during the month of October, is that right?

A. I came back around in October sometime, I believe the last of October.

Q. Can you fix the date more definitely, Mr. Booth, than just the latter part of October?

(Testimony of George Henry Booth.)

A. That is the best I can do.

Q. Could it have been the early part of October?

A. That is the best I can do.

Q. Could it have been in November?

A. I only fixed it for you the best I could, the latter part of October.

Q. That is the best of your recollection?

A. That is right.

Q. And you contacted Mr. Cosenza, if I [51] remember your direct testimony here this morning correctly, you contacted him at the Jefferson Bar and told him of your robberies, is that right?

A. I believe at the Jefferson Bar or the Corral, one. I don't remember which.

Q. Is the Corral and the El Rancho one and the same?

A. I believe the same on 24th and Camelback Road.

Q. I see. It was one of these two places that you contacted Mr. Cosenza, the defendant, in the latter part of October, 1949, after committing a series of burglaries in Oklahoma, is that right?

A. I believe it was.

Q. Could it have been in any other place, Mr. Booth, other than the two places you named that you contacted Mr. Cosenza?

A. I saw him at two or three different places, but one of these two places where we had the conversation.

Q. And there you told him definitely, did you, that you had committed a burglary at either one or the other of these bars?

(Testimony of George Henry Booth.)

A. I told him at that time in October that I had committed these burglaries. [52]

Q. But it was at either one of these bars, is that right? A. I believe it was, sir.

Q. Then, according to your direct examination I believe you testified you left the City of Phoenix again and didn't return until sometime around the first of December, is that right, '49?

A. I believe around the last of November or the first of December, or the last of November and the first of December.

Q. And when you arrived in town in the latter part of November, '49, where did you contact Mr. Cosenza?

A. Well, I believe that was at the Jefferson Bar.

Q. Could it have been at the El Rancho or the Corral?

A. I don't believe it was at that time. I think he had quit working there, or something.

Q. You aren't able to fix any more accurate date than just the latter part of November, is that right?

A. Latter part of November is the best I can do.

Q. Was anybody with you when you contacted him at that time? [53]

A. Well, I was in the bar two or three times. Lona Lane was along with me.

Q. Then in the latter part of November, 1949, Lona Lane was with you a time or two?

A. I believe she was.

Q. Did Lona Lane know of your burglaries in Oklahoma?



(Testimony of George Henry Booth.)

A. She was aware of it, I think, yes.

Q. Did you display these jewels to her?

A. I believe I did show them to her, yes. She knew what they were.

Q. Did you ever take any automobile trip with Mr. Cosenza about that time other than the one when you went to Skipper's, I mean?

A. Well, I met him two or three times at different places. I can't remember. Yes, we did, we went up on North Central at one time.

Q. In your car or his car?

A. I can't remember. I think I met him out there in my car. I met him out there, he was in his car. He came from home, or something.

Q. Was this before the trip to Skipper's.

A. Well, that, I can't remember. I believe it was right after the trip to Skipper's.

Q. Well, before the trip to Skipper's did you take any trip with Mr. Cosenza? [54]

A. Well, that is a few days in there I just can't remember because I was seeing the man every day or two.

Q. I believe you testified on direct examination that in your first contacts with Mr. Cosenza you didn't tell him about these robberies, is that true?

A. I don't understand that. Which first contact?

Q. The one in October, did you tell him you had committed the burglaries?

A. I did positively, yes, sir.

Q. Did you explain to him the fruits of these burglaries?

A. I did at that time. I did tell him.



(Testimony of George Henry Booth.)

Q. Did you explain any jewelry to him in the conversations in the latter part of November, 1949?

A. The first time he saw the jewelry is when he went to get the jewelry with me to show it to Skipper. It was around the first of December.

Q. Mr. Booth, can you fix that date any more accurately than about the first of December?

A. No, sir; I can't, around the first of December.

Q. Is it your best recollection at that time [55] that it was on the first of December that you and Mr. Cosenza made a visit to Skipper?

The Court: He said about the first of December, not the first of December.

The Witness: I said about.

Mr. Wilson: I beg your pardon.

The Court: He said about the first of December, not the first.

Q. (By Mr. Wilson): Could it have been the latter part of November, would you say?

A. The only answer I have for that is about the first of December, and that is all. I can't say one——

Q. Could it have been the first of January?

A. The only thing I just have to say it was around the first of December. I don't remember any more—I mean, more or less, it was right in that time.

Q. Was your partner in crime, Mr. Wheeler, around at that time?

A. Yes, he was around at that time, yes.

Q. Was he in that party that visited Skipper's

(Testimony of George Henry Booth.)

on about the first of December?

A. No, sir; he was not.

Q. You say at that time that Mr. Cosenza came out to the house in the 1500 block on West [56] Madison Street, is that right? A. He did, yes.

Q. And you place the time now at about one o'clock, is that right? A. Yes, sir.

Q. Could it have been 1:15?

A. I'd say it was around close to one o'clock.

Q. And who else was present when Mr. Cosenza was at that house on that occasion?

A. Well, Lona Lane was—she come for dinner and I was there and I told her I was going to meet this fellow, and she didn't like it—

Q. (Interrupting): Just a minute. The question is, who was there when Mr. Cosenza was there?

A. I don't remember whether she had left when he was there. It was right about the time she left and he came up. Her little girl was there.

Q. What kind of a car was he in?

A. He was in a Buick, a white Buick.

Q. Is that the first time that Mr. Cosenza ever saw any of the jewelry which was the fruit of these burglaries that you and Mr. Wheeler had committed?

A. That is the first time he saw them. He knew about them, but that is the first time he saw [57] them.

Q. And in what kind of container did you have them at that time?

A. I believe in a paper sack.

(Testimony of George Henry Booth.)

Q. Did you have all the jewelry that you had pilfered from people at that in your possession?

A. Not all of it, no, sir.

Q. Did you have all of this jewelry that is here in court that you had looked at?

A. Yes, sir; I did.

Q. There and you displayed it to Mr. Cosenza?

A. I did at that time, yes, sir.

Q. When did you make an arrangement with Mr. Cosenza to meet him at that house, at that particular time?

A. Well, I believe it was the day before that, the day before or a couple of days, or something like that, two or three days. I called him. He said he had these men that wanted to see it and they would probably buy it. I believe it was that day or something I called him and made arrangements.

Q. Had you displayed these jewels to any other prospective purchasers here in the City of Phoenix prior to that time?

Mr. Thurman: I don't see the materiality [58] of it unless Cosenza was there and had a part of it, and for that reason I object to it.

The Court: You may answer.

The Witness: Well, yes, I did, I believe.

Q. (By Mr. Wilson): Did Mr. Cosenza have anything to do with getting those prospective purchasers? A. Well, no, I suppose he didn't.

Q. How long was Mr. Cosenza at the house in the 1500 block on West Madison before you departed to go to Skipper's?

(Testimony of George Henry Booth.)

A. Possibly 10 minutes—15 minutes, something like that, a few minutes until he selected out this jewelry.

Q. And you drove downtown in Mr. Cosenza's car?  
A. Yes.

Q. Just the two of you?

A. The two of us, yes.

Q. And it is your testimony that the two of you went in together into Skipper's Bar, is that right?

A. Yes, sir.

Q. And you waited at the bar or in a booth there and Cosenza went to the rear?

A. That is right.

Q. This office in Skipper's Bar is in the [59] rear, is it?  
A. Yes, it is.

Q. And is in such a position that you can't see the entrance to the bar from the street; I mean, the street entrance, is that right?

A. Well, I have never surveyed it. At least, I don't know.

Q. What is your best recollection? You were there, weren't you?

A. I don't believe—no, it wasn't. You can't see it from the street. You went into the door into the **store room** and his office is behind it from the store room, I believe, or a hallway in the back of the bar there, if I remember right.

The Court: We will suspend at this point until 2 o'clock. Keep in mind the court's admonition and be back at two o'clock.

(Thereupon a recess was taken at 12 o'clock noon.)

Two o'clock p.m., after recess, all parties as heretofore noted being present, the trial resumed as follows:

The Court: You may proceed. [60]

GEORGE HENRY BOOTH

resumed the witness stand and testified further as follows:

Cross-Examination  
(Resumed)

By Mr. Wilson:

Q. Mr. Booth, I want to interrupt the questioning that I was on at the noon recess and ask you at this time, did I understand correctly that when you went to Oklahoma and burglarized a home or two, you returned to the City of Phoenix sometime in the latter part of October, is that right, '49?

A. I believe it was.

Q. Then you left again and returned about the first of December, or in that neighborhood, or the latter part of November, is that right?

A. Latter part of November, yes.

Q. You are sure you returned in October, are you?

A. Yes, I believe it was in October.

Q. And it was then that you told the defendant that you had burglarized places, but you didn't show him any of the loot, is that right, in October?

A. That is right.

Q. Do you remember that you were a witness against [61] this same defendant before the United States Commissioner in this building on the 27th day of June, 1950?

A. I believe I was, yes.



(Testimony of George Henry Booth.)

Q. In a case entitled "United States of America versus Raoul A. Cosenza, Defendant." Let me ask you if you weren't asked these questions and if you didn't testify as I shall now read:

"Q. Then in August following that, as I understand, you and Wheeler went to Oklahoma City? A. Yes.

"Q. And there you committed a series of burglaries?

"A. We committed one burglary first. This was the first job and then we committed two or three afterwards.

"Q. That was in the State of Oklahoma?

"A. Some in the State of Oklahoma and some in Texas as we came back.

"Q. Then you returned to the State of Arizona? A. Yes, right.

"Q. What month did you return to the State of Arizona?

"A. I believe it was around the first of December." [62]

You didn't testify there, did you, that you came back here in the month of October, did you, Mr. Booth?

A. Well, I don't remember exactly. I know I was in and out.

Q. Were you asked those questions and did you testify as you heard me read?

A. Of course, I can't exactly remember my testimony, but that sounds like my testimony.

Q. Well, as I understand, you and the defend-



(Testimony of George Henry Booth.)

ant, Mr. Cosenza, according to your testimony, went into the office of Mr. Skipper—Mr. Hooper, the proprietor of Skipper's Buffet, and there displayed this jewelry to him, is that right?

A. Well, sir, he displayed the jewelry to him before I went in.

Q. And was it the same jewelry that was displayed to you here in the court room this morning?

A. Yes, sir.

Q. Were there any other jewelry?

A. Well, there was one other piece, I believe.

Q. And was all of this jewelry displayed there to Skipper that is now in the court room?

A. As I can remember, it was. [63]

Q. Do I understand, or did I misunderstand you to say that you told Mr. Cosenza and Skipper at that time that this was what we commonly term "hot stuff"? In other words, that it was the result of your violation of the law?

A. I told him that, yes.

Q. You did? Did you tell him where you had gotten it?

A. I told Mr. Cosenza.

Q. I am talking about the conversation there at Skipper's?

A. I told him it was from the East, that it definitely was not from Phoenix. He asked me if it came from local. I told him, no, it was definitely out of the state.

Q. Did you make any reference of having a contact in San Francisco, California?

A. Well, I don't remember. I don't have any

(Testimony of George Henry Booth.)

contact there. I might have, but I don't remember it.

Q. Did you make any such statement as that to Mr. Cosenza there at Skipper's?

A. Having a contact?

Q. Yes. A. Not that I remember.

Q. I see. Skipper stepped out, you say, [64] while the jewelry was being displayed to him and took a piece with him, do I understand that correctly?

A. I believe he took two pieces, as I remember.

Q. And came back after a few minutes' absence, is that right? A. That is right.

Q. And when he came back he told you that he was not interested, or words to that effect, is that right?

A. Words to that effect. Himself, he was not interested.

Q. Did you have a conversation with Cosenza while Skipper was out of the room?

A. Well, we talked there, yes. I believe we talked while he was out of the room some.

Q. Mr. Booth, isn't it a fact that Mr. Cosenza brought up the subject of that check for \$40.00 that had bounced, that you had given him in July?

A. At that time he did not, because he knew the check was that way when I gave it to him.

Mr. Wilson: We move to have the answer stricken, if the court please, and the jury instructed to disregard his voluntary statement, on the part of the witness. [65]

(Testimony of George Henry Booth.)

The Court: All right.

Q. (By Mr. Wilson): Didn't you tell Mr. Cosenza right then and there that you had a contact in San Francisco and that that is where this jewelry all came from and it was safe?

A. I did not, not in San Francisco. I told him it came from the East and from Oklahoma.

Q. What did you use, "East" or "Oklahoma"?

A. Well, I told him it came from the East; Oklahoma and Texas.

Q. And didn't you ask Mr. Cosenza in that same conversation during the absence of Mr. Skipper where he was working?

A. I don't believe I asked him because I already knew.

Q. And didn't you make a statement to him that you would be down to see him in a few days about the check?

A. There was no conversation about that check.

Q. Did you make a statement to him that you had sales already made of this jewelry to a fellow named Art Funk?

A. I didn't make that statement to him, no.

Q. Did you have such a sale?

A. Well, I didn't have any sale, no. [66]

Q. Was he one of your prospects?

Mr. Thurman: I object as immaterial and irrelevant whether he was a prospect or not.

The Court: Yes.

Q. (By Mr. Wilson): Did you make any statement there either to Mr. Cosenza or to Skipper concerning the value of this jewelry?

(Testimony of George Henry Booth.)

A. I didn't appraise it, if that is what you mean. I told him it was worth, what I showed him, easily \$10,000.00.

Q. Did you tell him what the other prospects were offering for it in that conversation?

A. I don't believe I did. I don't remember it.

Q. Didn't you say you had an offer of \$6,000.00 from a gentleman by the name of Mr. Funk?

A. No, I don't believe I did.

Q. Did you use the name of Don Stewart any?

A. Not in that meeting.

Q. Did you use the name of Mr. Murphy?

A. At that meeting the only conversation there was between Skipper and I and Cosenza and the bartender and there was nobody else mentioned that I remember.

Q. With reference to the value, are you sure you [67] didn't tell them what other people were offering you for it?

A. I don't remember making any statement like that or telling him.

Q. Well, as I understand, after that then you left Skipper's Buffet and according to your story you returned to the house on West Madison Street and Mr. Cosenza went his way, is that right?

A. I returned to my car.

Q. Well, where was it parked?

A. It was parked in that vicinity.

Q. By the way, is that your home in the 1500 block on West Madison?      A. No, it is not.

Q. Had you been living there?      A. No, sir.

Q. You never had lived there?      A. No, sir.

(Testimony of George Henry Booth.)

Q. To whom did the house belong?

A. Well, it belonged to Lona Lane. She was boarding my boy there.

Q. Two or three days after that conversation at Skipper's you went to the Jefferson Bar and talked to Mr. Cosenza, didn't you?

A. Well, I don't know exactly what day it [68] was. Shortly after that I talked to him, yes. I talked to him up to the time I went to California.

Q. Was the subject of that check brought up at that conversation at the Jefferson Bar two or three days after the conversation at Skipper's?

A. Not that I remember at that time.

Q. And didn't you, at that time, again reiterate to this defendant that you had sales for that jewelry in prospect and as soon as you completed one you would give him the \$40.00?

A. No, I did not.

Q. Did you return to the bar several days after that first conversation down there?

A. Yes, I returned to the bar several times.

Q. Did you ever pay the check?

A. No, sir; I didn't, because I didn't owe it.

Q. The second time you were in there was the check given to you?

A. He gave me the check, yes.

Q. And how did he happen to give it to you?

A. Well, he came into the rest room and gave it to me.

Q. Was there any argument over the check or over your paying it at that time?



(Testimony of George Henry Booth.)

A. Well, I don't know as there was any [69] special argument about it.

Q. Was there any ill feeling between the two of you respecting the check at that time?

A. Well, the check was given to me, of course. He fingered a burglary for me——

Mr. Wilson: Just a minute. I asked you a definite question, whether there was any ill feeling engendered as a result of that check at that meeting?

A. I don't know as there was.

Q. Did you make a statement to Mr. Cosenza at that time that you felt you didn't owe him the check because you had to pay more of your share of the expenses on the transfer of that liquor license a year ago than he had paid?

A. That liquor license had nothing to do with it.

Q. And didn't he, Mr. Cosenza, then pull the check out of his pocket and say, "If you feel that way, take that check and do anything you want to with it," or words to that effect?

A. He just merely said, "Here is that check."

Q. Didn't he tell you thereafter to stay away from that bar room?

A. He did not.

Q. Didn't you several days after that return to the [70] bar room with a fellow by the name of Charley Kobus?

A. I believe I did.

Q. Charley Kobus is a man that weighs around 200 pounds and about your age, is that right?

A. Yes.



(Testimony of George Henry Booth.)

Q. And he has quite a reputation for being a pugilist, or something of that character?

Mr. Thurman: If he knows.

Q. (By Mr. Wilson): Do you know that—all right, isn't that true?

A. I returned there with him, yes, and had a couple of drinks.

Q. And you started a quarrel with Mr. Cosenza, didn't you, there, you and Charley Kobus?

A. No, Charley Kobus did not.

Q. Did you start one?

A. I merely told him what I thought about him, that is all.

Q. You told that to Mr. Cosenza? A. Yes.

Q. Mr. Cosenza threatened to call the police if you didn't get away from there and stay away?

A. He did not.

Q. When you left at his invitation you told him you were going to get him some way or other, [71] didn't you, or words to that effect?

A. I did not.

Q. And you do have considerable ill will against this man right now, don't you, as a matter of fact?

A. Not especially.

Q. And you do want to see him convicted in the worst kind of way in this case, don't you?

A. It makes no difference to me. I am just clearing up my case as a witness, that is all.

Q. And you are willing to resort to any kind of tactics to have him convicted?

(Testimony of George Henry Booth.)

Mr. Thurman: I object to the form of the question.

The Court: Oh, yes, that is improper.

Q. (By Mr. Wilson): What did you tell Mr. Cosenza that you thought of him? Can you recall your exact words at that last meeting when Mr. Charley Kobus was present?

A. Well, that, I can't exactly remember. I told him he was the first man that ever accused me of double crossing him, that I had not done it that way. Concerning this burglary that he fingered for me that I had done, that he was up on 24th Street and Camelback Road as an alibi for. Well, I done it and he accused me of getting [72] money which I didn't get there.

Q. That was a burglary that was committed out in the vicinity of this house on West Madison Street? A. Yes, West Madison, yes.

Q. There was only the two of you in that, you and Mr. Cosenza, is that right?

A. That is right.

Q. When did that take place, can you tell me?

A. I couldn't tell you the exact date.

Q. Well, can you give me the month, or can you even give the year that it took place, Mr. Booth?

A. Well, in '49, in July, around that time. It is the very night that he gave me the money for that check, the very night.

Q. What time of the night did the burglary take place?

A. Took place between 8 o'clock and about 10 or 11, or about 11—8 and 11.

(Testimony of George Henry Booth.)

Q. Way out on West Madison, is that right?

A. Yes.

Q. And Mr. Cosenza was working at the El Rancho up until one o'clock that night, is that right?

A. That is right, it was his alibi. He was. [73]

Q. So he assisted you in the burglary?

A. He told me what the man had there and he knew the man and what was there and he wanted to be working while it was done.

Q. I see. How many burglaries have you pulled in this town or in this vicinity, Mr. Booth?

Mr. Thurman: I didn't get the question.

(The question was read by the reporter.)

The Witness: Possibly 30.

Q. (By Mr. Wilson): Has Mr. Cosenza ever disposed of anything as a result of those burglaries?

A. He has tried to.

Q. Has he ever disposed of anything for you that you got out of these burglaries?

A. As far as I know, he has not.

Q. Did Charley Kobus ever dispose of anything for you?

Mr. Thurman: I object as being irrelevant, incompetent and immaterial.

The Court: Yes.

Q. (By Mr. Wilson): All right. Have you ever been convicted of a felony prior to this present conviction of yours? A. No, sir; I have not.

Mr. Wilson: I think that is all. [74]

(Testimony of George Henry Booth.)

Redirect Examination

By Mr. Thurman:

Q. Mr. Booth, you have no prior conviction prior to the crime that you are now incarcerated for, is that correct?

A. No, sir; I have no prior.

Q. That is your first conviction?

A. The first conviction, yes, sir.

Q. Now, did you make any arrangements with this man by the name of Skipper to display this jewelry to him in Phoenix, Arizona, about December 1st, 1949?

A. Well, through Mr. Cosenza, yes.

Q. And, did you meet him and make any arrangements yourself?      A. No.

Mr. Wilson: We object on the ground, if the court please, that is a part of the examination in chief, gone into and it is improper redirect examination.

Q. (By Mr. Thurman): I didn't ask him that in chief. Now, what about this check deal. Mr. Wilson asked you about it. Why was that check—why did it come into being?

A. Well, Cosenza was always telling me about some job to do and he told me about this one job and [75] that was on West Madison, this fellow he had formerly rented a store or had a bar out there, rented from him. He told me he got considerable cash, is the information he had got, and he said he couldn't do anything about it because he knew the

(Testimony of George Henry Booth.)

man and wanted to have an alibi, so he told me where I was to meet him and we looked at it together, where the man lived, because he told me he had been in the house. He said he knew the money was in his dresser drawer. At that time, I was a little bit short of money, so we arranged, he said he would have to be working out there, which he was working at the time, he would have to be working and he would rather have it done while he was working on the job. I told him, okay, it is all right if the money was there, so I went into the house.

Q. How did you enter the house?

A. Through the window.

Q. Through the window?

A. Yes, sir. I looked the house over.

Mr. Wilson: We object to that as not being material now.

The Court: Well, you started it.

Mr. Wilson: Well, I know. I have no objection to the conversation he had with the [77] defendant.

The Court: All right, go ahead, tell us.

A. He told me the man never kept nothing but cash there, no checks. I got in there. There was nothing there but except a gun and two pins and all checks, so I came out and brought what I had with me. There was some things also which I threw away. I was kind of up against it for money at that time, I mean, I was pretty short, so I went out to the bar and let him know that I done the job and completed it and what I had done and would he come out of the bar to the car and look at



(Testimony of George Henry Booth.)

the stuff, the gun and the two pins, and he said that he was surprised there was no money in there. I told him it was all checks in the dresser there, there was no money. He said, "What are you going to do with this gun?" I said, "I don't know what to do with the gun." I said, "You can keep the gun if you want it." He said, "All right, I will keep the gun, you can have the pins." I said, "I am kind of short of money now, I got to get out of town, the drive from Texas had me a little short of money." He said, "We will fix that." He said, "We will go to work, that will cost Lydel Hiett. You go in and sign a check, sign a phony name, so after I did that he would [77] give me \$40.00, so I went in. I asked what name to sign. He said, "Joe Blow," so I signed some phony name to it and he gave me the \$40.00 and I left. I took the \$40.00 and the two pins.

Q. But later he gave you the check back?

A. He gave me the check back. He accused me of getting a lot of money in the house. He said I got a lot of money and he knew I did. I said that I didn't. There was a little argument about me getting money. I didn't get any money.

Q. You say this particular incident happened during approximately the month of July, '49?

A. Well, it was around July, I believe.

Q. Now, prior to that time have you had any other activities with this defendant with respect to burglaries, or any other illegal transactions?

A. Yes, sir. He had a relative on South Central,



(Testimony of George Henry Booth.)

on up 1400, a bar, I believe it was his aunt, at one time that he told me that she had \$800.00 in there and they were off on a vacation, that he would cut the wires at the place if I would go in and get it. Well, he went in, went in and said, "I cut the wires." I told him to go back and check. He went back and checked. He said he fixed them good that time and cleared everything. I went in the place that night. He [78] drove the car. I went in in the back and the alarm went off. I took off, but it was his own aunt, one of his relatives that owned that place.

Q. Did you ever have any transactions with this defendant Cosenza, any happenings in Tucson, Arizona?           A. Yes, sir; we did.

Q. Please tell the court and jury about those transactions?

A. Well, I told him, I left, he was with me, I believe the year, I believe it was March or April sometime.

Q. What year was that, '49?

A. I believe in '49, yes, sir; '49, and would go to Tucson and he was going to go along with us to pull a burglary, I mean, we were going to pull this burglary and he was going to dispose of the merchandise. Well, he couldn't go at that time and we went ahead, I believe it was March or April sometime, we went over there and met him at this Pago-Pago club, and we got over there and called him back, we had been in some house over there, I mean, we got in the house, a fellow by the name of

(Testimony of George Henry Booth.)

Dines Nelson, and there we got a bundle of coins and we got stamps and we got foreign money, miscellaneous bundles, and a suitcase full of [79] things, so we called Cosenza back and told him to come on over, that we had this stuff, and he came on over, so we—he came on over there, and I can't remember what the deal is. His car broke down, or something, but anyway, he was going to bring the loot back and dispose of it for us, but he brought it back—we brought it back and he couldn't find any deal for it and, so, I gave him some stamps.

Q. What kind of stamps were these?

A. Foreign stamps. They were just a stamp collection from a stamp collection. Then we—he couldn't dispose of any of this loot for us and we were pretty disgusted with him, I mean, his actions pertained to the thing, I mean, we missed all the foreign money, it got away somewhere or other mysteriously in the car, so we just went on and left him. That is all we had to do with him at that time.

Q. At the time you turned the stamps over to the defendant, where were you when you turned them over?

A. In his house, in his bedroom.

Q. Who else was there?

A. Well, at the time that I turned the stamps over to him that night, he got a suitcase full of [80] loot in the house, and the next morning we came out there. The stamps were there, except some of this money was gone and we gave him the stamps,

(Testimony of George Henry Booth.)

told him he could have the stamps and then there was some transaction there, he tried to sell one of the cameras to his brother, tried to peddle it around, but at first him and I was in the bedroom when I gave him the stamps, and I believe Wheeler was there too. I don't remember.

Mr. Thurman: You may take the witness.

### Recross-Examination

By Mr. Wilson:

Q. Wasn't that about the time that you were attempting to dispose of another liquor license in conjunction with Mr. Cosenza?

A. After the one liquor license I dealt with Cosenza, him and George Sorenson, well, I didn't have a bit more dealings with Cosenza. I mean, I almost didn't get anything out of the liquor license. Him and George Sorenson just about got the money, so I didn't have too much——

Q. (Interrupting): Now, the question is, I know you are very anxious to convict the defendant, and all of that you have——

Mr. Thurman (Interrupting): Just ask the [81] witness the question.

Q. (By Mr. Wilson): Did you have any dealings at all at about that time that you just testified about concerning another liquor license?

A. Well, sir, we had several deals on liquor licenses.

Q. You were at Mr. Cosenza's house twice, I believe, in reference to that, were you not?

(Testimony of George Henry Booth.)

A. At what time?

Q. The time you just testified to along about May, April or March of '49?

A. No, sir; it was before that.

Q. You were at his house a time or two, weren't you?

A. Several times I have been to his house.

Q. And on one of those occasions you gave Mrs. Cosenza some stamps for her collection, didn't you?

A. I gave them to Raoul Cosenza.

Q. As I understand, again, Mr. Cosenza was supposed to dispose of the loot for you, and again he didn't do so, is that right, out of all of these burglaries that you have been telling us about?

A. He tried to. He said——

Q. (Interrupting): Did he dispose of any [82] of it for you?

A. I can't remember him selling one thing.

Q. On that occasion, which I believe was the occasion of these burglaries in Tucson, you gave him some coins, you gave him a suitcase full of loot, cameras, and so forth, is that right?

A. Yes.

Q. And he promised to dispose of that, is that right?

A. Yes.

Q. And he never disposed of any of it, is that right?

A. Yes.

Q. And he gave that all back to you, is that correct?

A. Yes, except the money and the stamps.

Q. And you were very much disgusted with him

(Testimony of George Henry Booth.)

over that, is that what you testified to on direct examination just now?

A. I was a little disgusted with him, yes.

Q. And in spite of that fact you believed he would go ahead and dispose of the other loot that you would acquire over in Oklahoma, is that true?

A. Well, I figured the man, he said he could.

Q. But in all these many burglaries, Mr. Cosenza, this defendant, never disposed of one [83] article for you, did he?

Mr. Thurman: It has been asked and answered I don't know how many times.

Mr. Wilson: Yes, it has been asked and answered a number of times. Withdraw it. That is all.

### Redirect Examination

By Mr. Thurman:

Q. This gun that you gave Cosenza at the time you robbed the place and got the pins, burglarized the place and got the pins, did he ever return that gun to you?      A. No, sir: he didn't.

Mr. Thurman: That is all. You may be excused for the present.

(Thereupon the witness was excused.)

Mr. Thurman: Mr. Nichols.

FRED NICHOLS

was called as a witness on behalf of the government,  
and being first duly sworn testified as follows:

Direct Examination

By Mr. Thurman:

Q. Mr. Nichols, you are a member of the police department [84] in the City of Phoenix, Arizona?

A. I am.

Q. And you are on the detective force?

A. That is right.

Q. And Captain Young is your immediate superior officer? A. He is.

Q. And was he such officer during the year, we will say, '49? A. Yes, sir; he was.

Q. Still is? A. Yes.

Q. Now, as such officer did you have occasion to investigate, to make it short, the stolen jewelry?

A. Yes.

Q. And did any other officer accompany you on this particular investigation?

A. Detective Harry Roberts.

Q. And I assume that he belongs to the same department? A. That is correct.

Q. Now, in this particular investigation did you meet up with this man Booth? A. I did.

Q. And where did you first meet him? [85]

A. Reno, Nevada—wait a minute, when I first had any deals with him was in Reno, Nevada. I did observe him in Hawthorne, California, and Los Angeles and arrangements made to pick him up in Reno, Nevada.



(Testimony of Fred Nichols.)

Q. You did meet him in Reno, Nevada?

A. That is right.

Q. When you met up with him in Reno, Nevada, who was with you?

A. Detective Roberts and Detective Walter Steward of the Robbery Squad, Los Angeles Police Department.

Q. And what took place in that city?

A. Pardon?

Q. What took place where you picked up the defendant in Reno, Nevada?

A. We picked up the suspect in Reno, Nevada, at which time we placed him in the County jail. We questioned him and he signed a waiver.

Q. Let's go into the jewelry. What happened after you arrested him?

A. After we arrested him we questioned him in regards to the jewelry. At that time he would not give us any information in regards to the jewelry. During our investigation of the case we found out that he had been at the 116 Club in [86] Reno. We then went to the 116 Club in Reno and talked to the proprietor, Mr. Donald Ripper, for approximately two hours. We then informed him we would be back the next day.

Mr. Wilson: We object, if the court please. I don't think that is material or has any bearing on the charge here.

The Court: All right.

Q. (By Mr. Thurman): Handing you Govern-

(Testimony of Fred Nichols.)

ment's Exhibits 1-A to E, I will ask you if you can identify those?       A. Yes, sir; I can.

Q. Where was the first time you ever saw those exhibits?

A. The first time I ever saw these was when we dug them up 14 miles east of Reno.

Q. They are the same exhibits that you dug up 14 miles east of Reno?       A. They are.

Q. In Reno, Nevada?       A. Yes.

Q. And about what date was that, if you can tell us approximately?

A. I believe it was on May 26th.

Q. What year?       A. '50.

Q. And who was there when they were dug [87] up besides yourself?

A. At that time Detective Roberts was there, Sheriff Ray Roote, from Reno, a couple of FBI agents and the under-sheriff, and photographs were taken before these were dug up out of the ground and the defendant, or, not the defendant, but George Booth was with us.

Q. Did he identify them at that time?

A. Yes, he did. He took us right to the things.

Q. Then after these were dug up, who obtained possession of them?

A. We placed them in the vault in Sheriff Ray Roote's office in Reno.

Q. Did they ever get to Phoenix?

A. Pardon?

Q. Did they ultimately get to Phoenix?

(Testimony of Fred Nichols.)

A. Yes, we brought them back to Phoenix ourselves.

Q. Who did you deliver them to after you got them here?

A. We delivered them right to the Police Department, Captain Young.

Q. Now, are you acquainted with the defendant in this case, Raoul Cosenza?

A. I am since I have been working on this [88] case, yes.

Q. And when was it that you first met the defendant?

A. I believe it was on June 7th, 1950.

Q. Whereabouts?

A. At the Police Department.

Q. And was he under arrest at that time?

A. At that time he was not, no.

Q. Who was present?

A. Detective Roberts, Captain Young, and, I believe George Wilson or Sorenson was.

Q. Can you tell us what time of the day it was?

A. It was in the afternoon along about two o'clock, I believe—one o'clock, something like that.

Q. Was this jewelry present there at that time?

A. No, it was not present there at that time. It was in the property locker.

Q. Did you discuss with the defendant any of the particulars of this case?

A. Yes, we did.

Q. In substance what did you say to the defendant and what did he say to you and the others that

(Testimony of Fred Nichols.)

were then and there present at that [89] time and place?

Mr. Wilson: Just a minute, please, Mr. Witness. If the court please, may I inquire of the witness whether a stenographic report was made of the conversation?

The Court: Was it reported?

The Witness: No, it was not reported.

The Court: All right, go ahead.

The Witness: We asked the defendant if he knew Booth, George Booth.

Q. (By Mr. Thurman): When you speak of "Booth," you mean the man that preceded you on the witness stand?

A. I guess he preceded me, yes—George Booth and Oliver Eugene Wheeler, who was an accomplice in these burglaries with George Booth. First he said he didn't know them. We then showed him a picture and told him we had information that he did know him, and he identified knowing them, after that he said he knew him, and we questioned further regarding his activities with Booth and the jewelry and told him we had information that the jewelry had gone into Skipper's bar, that he was in company with Booth at the time it was taken there and he said they had taken it to Skipper's bar but he didn't know [90] it was stolen, had any idea it was hot, at which time I believe Mr. Sorenson said, "I think you said enough already."

Q. Was anything said to the defendant Cosenza at that time concerning any stamps?

(Testimony of Fred Nichols.)

A. We told him we had gotten stamps from his home which Booth told us that he had given to Cosenza to give to his wife. On June 5th we had obtained a search warrant, went to the defendant's home with the search wararnt and before we showed the search warrant to his wife we asked about anything he had brought there. She said he had not had anything there in regards to Booth or any stolen articles. We then showed her the search warrant and she took us into the bedroom and gave us numerous packages of foreign stamps which she said had been given to her by her husband and George Booth had given them to her husband.

Q. And what did you do with the stamps?

A. They were brought into the police station and placed in the property locker.

Q. Are they still there, do you know?

A. I don't know if they are still there or not.

Q. Did you tell us what Cosenza said about the stamps, if anything, at that time? [91]

A. He said that Booth had given them to him to give to his wife.

Q. At the time you went to the Cosenza home here in Phoenix, Arizona, with the search warrant, did you find anything else in addition to the stamps that you mentioned?

A. No, we didn't find anything else. There was some coins we brought in thinking they might be out of the place where the stamps were taken, which was the Dines Nelson home in Tucson, as they



(Testimony of Fred Nichols.)

missed old coins, but Mr. Dines could not identify them——

Mr. Wilson (Interrupting): Just a minute——

Mr. Thurman: You may cross-examine.

Cross-Examination

By Mr. Wilson:

Q. Officer, showing you Defendant's Exhibit Number A for Identification—I mean, Government's Exhibit 1-A for Identification, can you throw any light, Officer, upon who possibly took out some of the diamonds out of this?

A. I could not. On our report when this was picked up it was shown in our report when it was turned in that these were missing.

Q. Do you have that report with, perchance, [92] Officer?

A. No, sir; I do not.

Q. Where is it, is it filed?

A. It is a property slip which is with the property clerk at the police department.

Q. That is Mr. Charles Sittenfeld?

A. Yes, sir.

Q. Did you find all of that jewelry in that whole display there on the table in the possession of the Government's attorneys?

A. May I look at it again before I answer that question, all of it.

(Thereupon the articles were handed to the witness.)

The Witness: Yes.



(Testimony of Fred Nichols.)

Q. That was all taken out of that hole, is that right? A. I believe it was, yes, sir.

Q. You never saw any of that in the possession of Mr. Booth prior to your finding it in that hole?

A. No, I never saw any of them in his possession.

Q. Then your other connection with this case, is, I believe you testified, that you made a search of the defendant's home along about the 5th day of June, 1950, is that right? [93] A. Yes.

Q. That was a couple of days before you had this conversation with the defendant down there in the police department when his attorney, Mr. Sorenson, was present? A. That is right.

Q. And when you wanted to have that conversation all you did was to call the defendant, Mr. Cosenza, and he came right down, hadn't he?

A. I had been looking for him for two days and his wife told me he was out of town.

Q. All you did was to call and he came right down, isn't that true?

A. I don't recall, but he came there.

Q. The reason you got that search warrant was because the man named George Henry Booth told you he had turned over a lot of loot to Mr. Cosenza, the fruits of certain robberies that Mr. Booth had committed, is that right? A. That is true.

Q. He gave you quite a number of articles, didn't he, guns, cameras, and so forth?

A. That is correct.

Q. Did you find any of that in the home of Mr. Cosenza?

(Testimony of Fred Nichols.)

A. Such as guns or cameras? [94]

Q. Guns, cameras?

A. No, no guns or cameras.

Q. Or did you find any container that they could have been contained in, such as a suitcase, such as Mr. Booth testified? A. No, sir.

Q. Did you ever ascertain whether or not the defendant had ever disposed of any such articles or not in the City of Phoenix in your investigation? A. I did not.

Q. Outside of the stamps that Mr. Booth told you about, did you have any other information that this defendant ever had in his possession any such articles? A. Such as guns or cameras?

Q. Yes.

A. Yes, his brother, I believe his name is Paul, said he tried to sell him a camera.

Q. And did he say when it happened or what kind of camera it was?

A. No, he said they wanted too much money for it, they asked \$75.00 for it, and I believe 75, and it was too much money for it.

Q. That was Paul, you say?

A. I think that is his name, he lives down [95] approximately at 1400 Palm Lane, something like that, 14th Street.

Q. Aside from that, who else ever told you that Mr. Cosenza ever had any of that loot that Mr. Booth said he had delivered to him?

A. You are talking about the guns and cameras?

Q. Yes.

(Testimony of Fred Nichols.)

A. Or in regards to the jewelry here?

Q. Well, any of it, I am not trying to limit it to one article.

A. Mr. Skipper Hooper, from Skipper's, said they had been in there and tried to sell some stuff but he wouldn't have anything to do with it.

Q. All right. Mr. Skipper is a witness here, is he?      A. I believe he is.

Q. Yes. All right, and that is the extent of your information that Mr. Booth told you about delivering any loot at all over to this defendant, is that right, Officer?      A. That is right, yes.

Q. Now, you say that in that conversation that you had in the police department on the 7th day of June, 1950, with the defendant, that he made certain admissions to you. Did he ever admit that Mr. Booth had ever given him any of the articles [96] we have enumerated, guns, cameras, jewelry or anything else?      A. I don't know as he did.

Q. Didn't Mr. Booth, in his confession to you prior to that time, say that Mr. Cosenza had been engaged in a number of robberies with him, or burglaries?

A. He said he did. He said he pointed out a number of places for him to burglarize.

Q. Did you ask Mr. Cosenza about that in that conversation?

A. We didn't have much of a chance to talk to Mr. Cosenza, because Mr. Sorenson spoke up and

(Testimony of Fred Nichols.)

said, "I think you said enough already" and that was the end of the conversation.

Q. How long was that conversation in progress?

A. I wouldn't say it was over 15 minutes.

Q. Well, if your fellow officer, Mr. Roberts, said it was an hour, would you dispute it?

Mr. Thurman: I object as argumentative.

The Court: Yes.

Q. (By Mr. Wilson): All right, and wasn't it after all, every bit of the matter had been gone into, Officer, that Mr. Sorenson spoke up and said, "Well, that concludes it," or, "We have said enough and we are going to leave"? [97]

A. We had attempted to question the defendant; he would not talk, he wouldn't mention anything. When he finally did decide to talk, Mr. Sorenson said, "I think you said enough, we had better leave."

Q. You don't know how long the defendant had been talking up to that point, is that it?

A. No, it wasn't very long.

Q. 15 minutes?

A. I think I answered that question a while ago.

Q. Was the statement made either by Mr. Sorenson or by Mr. Cosenza when the meeting broke up on that occasion, that if you wanted any additional information Mr. Cosenza would be available at any time?

A. Yes, it was.

Q. And you went right down and issued a

(Testimony of Fred Nichols.)

warrant then, didn't you, or had you done that previously? A. We had done that previously.

Q. You didn't inform Mr. Cosenza that you had warrant right then in your pocket for Mr. Cosenza, did you? A. I did.

Q. But you didn't arrest him or make any [98] attempt to?

A. I didn't arrest Mr. Cosenza and I can tell you why.

Q. And you didn't arrest him until 6 o'clock that night?

A. I didn't arrest him at 6 o'clock. He waited until after I came home and he came in.

Mr. Wilson: That is all.

### Redirect Examination

By Mr. Thurman:

Q. Why didn't you arrest him at that time?

A. At that time Mr. Cosenza stated that he had a liquor license to sell to a man from Superior who had come down, was going to be here at 2 o'clock, I believe, and in talking it over with the captain, he said, "That is all right, let him go out to the capitol building and make his business transaction and have him back here at four," because I went home at five o'clock. I talked to Mr. Cosenza and he said, "That is fine," and Sorenson was there, but they left and they did not come back until after I had gone home, and when he did come in, he came in with Mr. Sorenson.

(Testimony of Fred Nichols.)

Q. He came in with Mr. Sorenson?

A. They came in later that night after I [99] had gone home, after he had promised me he would be back at four o'clock.

Mr. Thurman: That is all.

Mr. Wilson: That is all.

(The witness was excused.)

The Court: We will have our afternoon recess at this time. Keep in mind the court's admonition.

(Thereupon a short recess was taken, after which, all parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:)

Mr. Thurman: Mr. Cook.

VINCENT E. COOK

was called as a witness on behalf of the Government, and being first duly sworn testified as follows:

Direct Examination

By Mr. Thurman:

Q. Your name is Vincent E. Cook?

A. That is right.

Q. And you are employed at Skipper's bar here in Phoenix, Arizona? A. Yes, sir.

Q. And during the month of December, [100] 1949, were you such an employee? A. Yes.

Q. And did you ever have occasion on or about the latter part of December, 1949—the first of De-



(Testimony of Vincent E. Cook.)

ember, 1949, to meet this man George Henry Booth?      A. Well, I saw him, yes.

Q. You saw him about that time?

A. Around that time. I don't know the exact time.

Q. Well, it was the early part of December?

A. Yes—well, I wouldn't be sure about it.

Q. Well, who was with him at this particular time you have in mind, if anyone?

A. Well, the time that I saw him?

Q. Yes.

A. The first time I saw him was in the cocktail lounge.

Q. Who was with him then?

A. He was by himself.

Q. He was by himself?      A. Yes.

Q. And immediately prior—you saw him in the cocktail lounge at Skipper's?      A. Yes.

Q. Did you see the defendant? [101]

A. No.

Q. Did you see the defendant there that day?

A. Well, I saw him walk through the place, through the bar and then into the office.

Q. Where was Booth at that time?

A. He was still in the—sitting in the booth.

Q. Sitting in the booth, Booth was in the booth?

A. That is right.

Q. And Cosenza walked through where, did you say?

A. Walked through the bar into the office, which is in the rear of the bar.

(Testimony of Vincent E. Cook.)

Q. Whose office is that?

A. That is Skipper's office.

Q. I'd like to know Skipper's name?

A. Skipper Hooper. He is the owner.

Q. Could you give us the time of that approximately?      A. Time of day?

Q. Yes.

A. I'd say it was the afternoon sometime, say, around one or 1:30, somewhere around there.

Q. And how do you fix the time, we will say, approximately 1:30? [102]

A. Well, Skipper doesn't usually come down until after 12 o'clock anyway, so it had to be about the afternoon.

Q. Now, after you saw the defendant Cosenza go into Skipper's office, what else did you see at that time?

A. Well, I didn't see anything else.

Q. You didn't see anything else?

A. I didn't see Booth. The first time I saw Booth he was in the office.

Q. Booth was in the office?      A. Yes.

Q. And when was Booth in the office—who else was in there?

A. Well, the defendant and also Skipper Hooper.

Q. The three of them?      A. Yes.

Q. Did you see anything else besides Skipper, Booth and Cosenza in the office at that time?

A. Did I see anything else?

Q. Yes.      A. I saw jewelry.

Q. You saw some jewelry. Do you remember what it looked like?

(Testimony of Vincent E. Cook.)

A. Well, I could probably—— [103]

Q. (Interrupting): Handing you Government's Exhibits 1-A to E for Identification, I will ask you if you can identify any of them?

A. Well, I couldn't say positive, but this piece, of course, is outstanding.

Q. Could you tell the jury approximately how many pieces were there?

A. Oh, gosh, several. I don't recall.

Q. But you distinctly——

A. (Interrupting): I remember seeing that piece and maybe the watch here.

Q. And you remember distinctly of seeing Exhibit 1-A for Identification, which is a bracelet?

A. Yes.

Q. Now, could you tell us why this bracelet sticks out in your mind, Mr. Cook?

A. Well, it is the largest piece that was there and it does—I just looked at it.

Q. And how long were you in this room?

A. Not very long. I went into the office, through the office to the liquor room. We have a liquor room in back of the office to bring out some stock and saw the jewelry on the table and looked at it and went on back.

Q. Did you have any conversation with anyone while [104] you were in there looking at the jewelry?

A. Oh, I made some remarks, kidding remarks about the jewelry, like that.

Q. And then you went out?

A. Yes.

(Testimony of Vincent E. Cook.)

Q. Then where did you go?

A. Back to the bar. I was working behind the bar.

Q. And after you had been in the room and seen the jewelry and went behind the bar, did you see either Skipper or Cosenza or Booth immediately after that?

A. I saw Skipper a little after that.

Q. A little after that?           A. Yes.

Q. And who was with him at that time?

A. He came out by himself.

Q. Came out of where?

A. Came out of the office and sat down in the front of the bar and had one of the pieces of jewelry in his hand. I think it was the piece I identified there.

Q. That was one of the pieces of jewelry that you had seen in the office?           A. Yes.

Q. And what was done between you and Skipper at [105] that time?

A. Well, he just looked at it in the light and asked me what I thought about it, and, so, I was not interested in it, and he said he wasn't either, and went on back to the office.

Mr. Thurman: You may cross-examine.

### Cross-Examination

By Mr. Wilson:

Q. Mr. Cook, did you make an offer of \$600.00 for that piece of jewelry you saw there?

A. No, I didn't.

(Testimony of Vincent E. Cook.)

Q. And if Mr. Booth testified before this jury under oath that you did——

Mr. Thurman (Interrupting): Just a minute; I object to that as improper cross-examination.

The Court: Yes, he said he didn't make the statement, so that settles that.

Q. (By Mr. Wilson): Did you hear anybody else make any offer to Mr. Booth?

A. No, I didn't.

Q. Or did you hear Mr. Booth place any valuation upon any of the jewelry?

A. Well, I heard the remark about \$10,000.00 for the lot, but I didn't actually hear it myself.

Q. What time did you go on shift that day, [106] may I ask, Mr. Cook?

A. We open at nine. I usually go to work about eight.

Q. And do you have any time off for luncheon?

A. No.

Q. Work straight through. Is there another bartender on duty at that time? A. No.

Q. So you were left alone to wait upon the trade that is usually rather heavy at that time, isn't it. A. Yes, yes, sir.

Q. Beg pardon? A. Yes, it is.

Q. And there are two rooms in Skipper's cafe there, or bar, whatever it is called, one that has a long bar in it and west of that is the cocktail lounge or room, is that right?

A. Yes, that is true.

(Testimony of Vincent E. Cook.)

Q. And there is a sort of archway, an entrance between the two?      A. Yes.

Q. And in the cocktail lounge, I believe, there are a number of booths around the walls, and tables?      A. Yes. [107]

Q. And was it in there that you saw Mr. Booth sitting?      A. Yes, it was.

Q. The first time, sitting alone?      A. Yes.

Q. You can't tell us, I take it, you can't fix the date of that occasion any more definitely to say it was about the first of December, is that right?

A. That is right.

Q. It could have been, I take it, the last day or two of November, or the first day or two of December?      A. It could have been.

Q. But it was within that range there somewhere, wasn't it?      A. Yes.

Q. Within a three or four day range, isn't that true?      A. Yes, I would say so.

Q. You were acquainted with the defendant, weren't you, at that time?      A. Yes, I was.

Q. I mean, Mr. Cosenza who is here on trial. You knew that he was doing business for Skipper in the transfer of various liquor licenses? [108]

A. Yes, I did.

Q. You know that right on that very day there was a deal for a Number 7 license pending, did you not?      A. Yes, I knew about it.

Q. And you knew that Mr. Hooper, Skipper, had to get a Number 7 in order to complete a deal for a Number 6 that he was buying?      A. Yes.



(Testimony of Vincent E. Cook.)

Mr. Thurman: I object, I don't see the proper cross-examination, no foundation laid for it.

The Court: No, it wouldn't make any difference anyway.

Q. (By Mr. Wilson): And Mr. Cosenza was in and out of that bar room every day, isn't that true?

A. I would say almost every day, quite often.

Q. He, himself, was working, was he not, down at the Jefferson at that time?

A. Well, I knew he was working down there. I think it was about that time.

Q. You did see Mr. Cosenza go into Skipper's private office? A. I did.

Q. Before you ever saw Mr. Booth sitting in that cocktail lounge? [109]

A. No, no, I saw Mr. Booth in the other room first.

Q. Do you know whether Mr. Cosenza was in talking with Skipper prior to the time you now testify you first saw Mr. Cosenza?

A. Well, I know that Mr. Cosenza went into the office first.

Q. Was he in company with Mr. Booth up to that point at all?

A. I didn't see him in his company.

Q. Did you ever hear any conversation when you were looking at the jewelry with respect to whether it was stolen property or not?

A. No, I didn't.

Q. Was any such statement made in your presence during that conversation?

(Testimony of Vincent E. Cook.)

A. No, it was not.

Mr. Wilson: That is all.

Redirect Examination

By Mr. Thurman:

Q. Mr. Cook, this time that you have mentioned when Booth was sitting in the booth and Cosenza had gone into the office with Skipper, had you ever seen these two people together in the bar there before; that is, Booth and this man Cosenza? [110]

A. Not together, not that I recollect.

Mr. Thurman: That is all.

Recross-Examination

By Mr. Wilson:

Q. Well, just a minute, you had never seen them together?

A. Not before seeing them in the office.

Q. Do you have any recollection of their being there, can you recall just in what order they left there, or anything? A. No, I don't recall.

Mr. Wilson: All right, that is all.

(Thereupon the witness was excused.)

Mr. Thurman: We now offer in evidence Government's Exhibits 1-A, 1-B, 1-C, and 1-D and 1-E for Identification in Evidence.

Mr. Wilson: Well, to which we object on the grounds that the ownership of that jewelry has not

yet been established, it has not been established that the defendant has—that it is stolen property.

The Court: Well, Booth said it was, how much more evidence do you want?

Mr. Wilson: Well, we do have to believe, I believe under the authorities as I read them, [111] you will have to have some evidence showing to whom it belonged, and so forth.

The Court: Well, all right, you have stated your objection. It will be overruled.

Mr. Thurman: Please mark these Exhibits in Evidence.

(Thereupon the articles were marked Government's Exhibits 1-A, 1-B, 1-C, 1-D and 1-E in Evidence.)

Mr. Thurman: The record may show that the exhibits are being handed to the jury for their perusal.

The Government rests, your Honor. [112]

### Defendant's Case

Mr. Wilson: Call Mr. Hooper.

### ROBERT S. HOOPER

was called as a witness on behalf of the defendant, and being first duly sworn testified as follows:

### Direct Examination

By Mr. Wilson:

Q. Your name, please?

A. Robert S. Hooper.

(Testimony of Robert S. Hooper.)

Q. Are you the gentleman that is generally known as "Skipper"? A. Yes, I am.

Q. Are you the owner of Skipper's Buffet or Cafe here on Adams Street, Phoenix?

A. That is right.

Q. Mr. Hooper, were you served with a Subpoena Duces Tecum to produce certain records to this court? A. I was.

Q. Particularly a couple of checks. Have you got them with you? A. Yes.

Mr. Wilson: May I see them. [113]

(The witness hands documents to Mr. Wilson.)

Mr. Wilson: May I have these marked for identification?

(Thereupon the documents were marked as Defendant's Exhibits A, B and C for Identification.)

Q. (By Mr. Wilson): Mr. Hooper, are you acquainted with a man by the name of George Henry Booth? A. Yes, I know him.

Q. Did you know him prior to December 1st, 1949? A. I did not.

Q. Did you see George Henry Booth on December 1st, 1949?

A. I couldn't tell you the exact date. It was somewhere about that time.

Q. Is there any way you could fix the exact



(Testimony of Robert S. Hooper.)

date on any of these instruments that were just marked in evidence?

A. Well, I don't know how I could fix the exact date. Truthfully, these checks were concerning real estate deals——

Mr. Thurman: Just a minute, they are not in evidence, used for the purpose of refreshing the witness' memory. I don't think it is proper to testify——

Mr. Wilson (Interrupting): I am just asking you [114] whether either of these instruments would assist you in any way in fixing the exact date of his visit, say, within a day or two when it took place?

A. Well, it was around December 1st.

Q. What time that day did you arrive at your place of business?

A. Well, it was after lunch. I don't usually come in until noon.

Q. Your office is located in the rear of the business establishment, isn't it?      A. Yes.

Q. Your business establishment consists of a bar room and then a cocktail room west of that, is that right?      A. Right.

Q. And an archway entrance between the two?

A. Yes.

Q. Can you see the entrance door of the bar room, the street entrance from your office in the rear of the business establishment?

A. I can not.

Q. Did you see the defendant Mr. Cosenza on

(Testimony of Robert S. Hooper.)

or about the first day of December in your office?

A. Yes.

Q. Did you see the gentleman I have identified [115] as George Henry Booth in your office in Skipper's Buffet?

A. Yes.

Q. On that same date did you have any business transactions with Mr. Cosenza?

A. Well, I was on this deal.

Q. That deal pertained to what?

A. Well, two liquor licenses.

Q. Let me ask you whether or not Mr. Cosenza had ever done work of a similar nature for you prior to that time?

A. Several times.

Q. Do you know whether he was a duly licensed realtor for the State of Arizona?

A. I think so.

Q. Did you have any conversation with Mr. Cosenza relative to this business transaction, these liquor licenses that you just mentioned?

Mr. Thurman: I don't see the materiality of these liquor licenses. I object to it as irrelevant, incompetent and immaterial.

The Court: All right, I will sustain the objection.

Q. (By Mr. Wilson): You testified you had a business conversation with Mr. Cosenza at the time on the same date that Mr. Booth arrived there, is that [116] right?

A. Yes.

Q. That same day?

A. Yes.

Q. With reference to the time that Mr. Booth



(Testimony of Robert S. Hooper.)

was in your office, when did you have the conversation with Mr. Cosenza about the business?

A. Well, it was before that.

Q. About how long before, could you indicate?

A. Possibly an hour, half hour—three-quarters of an hour, somewhere about that.

Q. How long did that conversation—was it in progress?

A. Oh, 15 or 20 minutes, I presume.

Q. Was there anything at all said in that conversation respecting a visit by Mr. Booth later, in the next 15 or 30 minutes or 45 minutes?

A. No, there was not.

Q. Were you subpoenaed by the government, too, in this case?      A. I was.

Q. Do you know whether or not Mr. Cosenza had other employment at that time?

A. I believe that he was employed at the Jefferson Cocktail Lounge. I am not sure.

Q. When Mr. Cosenza left your office [117] after your business discussion with him, was it only a few minutes before he returned with Mr. Booth, or about how long?

Mr. Thurman: Just a minute, I think it is leading and suggestive. Let's find out, let the witness testify.

The Court: Oh, he may answer.

(The question was read by the reporter.)

The Witness: Well, it was shortly thereafterwards.

(Testimony of Robert S. Hooper.)

Q. (By Mr. Wilson): And he had been in your office some 15 or 20 minutes, then, is that right?

A. That is right.

Q. Before he ever went out? A. Right.

Q. Do you recall the conversation that took place among the three of you, Mr. Booth, Mr. Cosenza and yourself, or anyone else that might have been present in your office, after Mr. Booth came in there? A. Conversation?

Q. Yes, among the three of you.

A. Well, Mr. Booth tried to sell me some jewels, yes, is that what you want to know?

Q. Yes. In whose possession did you first see those jewels? [118]

A. They were in Mr. Booth's possession.

Q. What kind of container did he have them in, if you know?

A. Well, I think it was a paper sack.

Q. Paper sack. How did Mr. Booth proceed to display the jewels to you there in your office?

A. Well, as I remember, he reached in the paper sack and laid them out on my desk. It was three pieces, I think.

Q. Did you at any time see that paper sack in the possession of this defendant, Mr. Cosenza?

A. Not to my knowledge.

Q. Now, will you tell what conversation ensued there at that time among the three of you?

A. Well, Mr. Booth said he had something to show me and produced these jewels and wanted to know if I would be interested, so, naturally, anyone

(Testimony of Robert S. Hooper.)

would take a look at them, which I did, and, so, I asked him what he wanted for them and he said \$10,000.00. I said, "Well, I am not interested, I don't have that kind of money for things like that," and that was about the consummation of the transaction between us, as I remember it.

Q. Do you know whether or not one of your bartenders by the name of Mr. Cook was in there at any time during the course of the [119] conversation? A. Yes, he was.

Q. Was any statement ever made by anyone, or was any offer made that you heard by anyone to Mr. Booth for any of the jewelry?

A. No, there wasn't that I know of.

Q. Was any price stated that they were willing to pay for it?

A. I didn't hear any price stated.

Q. Mr. Hooper, did you, during the course of the conversation, leave the room at any time?

A. Yes, I went out to the bar.

Q. And could you estimate about how long you were absent from the room?

A. Oh, five minutes or so.

Mr. Wilson: Cross-examine.

#### Cross-Examination

**By Mr. Flynn:**

Q. Mr. Hooper, on this day, the first of December, you say that this defendant came into your office first alone, is that right?

A. The defendant, may I clear myself, is Mr. Cosenza, is it?

(Testimony of Robert S. Hooper.)

Q. Yes, Cosenza. A. Yes.

Q. He came in there alone? [120] A. Yes.

Q. You spent how long in there with him before he went out?

A. Well, it was a matter of a few minutes, 20 minutes, or something.

Q. Now, did he say what he was going out for?

A. No, he had completed his deal with me.

Q. He was leaving, he was through with you?

A. As far as my deal was concerned, yes.

Q. How long after he went out of the office there was it before Booth came in there?

A. Well, it was not very long.

Q. Well, was it five minutes or half hour?

A. Well, 10 minutes or 15 minutes.

Q. And he came in there alone, did he, Mr. Booth?

A. Well, when I looked up from my work from my desk they were both in the office. I don't know whether they came in alone or how they came in.

Q. When you saw Mr. Booth in your office, Cosenza was with him when you first saw them inside of your office? A. That is right.

Q. Is that the first time you had ever seen Booth? [121]

A. To the best of my knowledge.

Q. The first time you ever knew who he was?

A. That is right.

Q. Did he or Cosenza at that time tell you who he was? A. Yes.

Q. What did they say?

(Testimony of Robert S. Hooper.)

A. Well, he said this gentleman, he didn't tell me his name, no, no, I am sorry, he didn't tell me his name.

Q. Did he tell you what his business was?

A. No.

Q. What did Cosenza tell you about Booth?

A. Well, this Booth said that he wanted to show me something.

Q. That is the first thing he said?

A. That is right.

Q. Walked into your office, a perfect stranger, and said he wanted to show you something?

A. That is right, because I was doing work and I looked up and astonished to see——

Q. (Interrupting): What did you say after he said that? A. I said, "Well, okay."

Q. Did he tell you what it was, he just said "something"? [122] A. Yes.

Q. He didn't say "Jewelry," did he?

A. No.

Q. Then afterward you said okay, then what happened then, what did Mr. Booth do?

A. He just displayed the jewelry.

Q. On the table? A. On my desk.

Q. And what did he say about it?

A. Wanted to know if I would be interested in it.

Q. In buying it? A. In buying it.

Q. And what did you tell him?

A. I looked at it, looked it over and then told him no.

(Testimony of Robert S. Hooper.)

Q. Now, you told him no before he told you that he thought he ought to get \$10,000.00 for it?

A. No, I didn't.

Q. Did you ask him where the jewelry came from? A. I did not.

Q. You didn't ask what his business was?

A. I did not.

Q. And he didn't tell you?

A. And he didn't tell me. [123]

Q. And Cosenza was in there all the time, the defendant? A. That is right.

Q. He didn't say anything, have any part whatever to do with this deal; took no part in it, is that right?

A. I don't remember him saying anything.

Q. You remember, Skipper, being interviewed in the Federal Bureau of Investigation office on or about June 7th, 1950? A. Yes.

Q. In the presence of John Hemphill, George Booth being the witness and Detectives Harry Roberts and Fred Nichols? A. Yes.

Q. You remember that interview?

A. Yes.

Q. I will ask you if at that time you didn't tell them, at that time when they came into your office, Cosenza had possession of the jewelry and that Booth was called into the conference after Cosenza had spread the jewelry on the desk in the back room for the purpose of display; did you make such a statement to these agents or officers at that time?



(Testimony of Robert S. Hooper.)

A. No, I didn't make such a statement. [124]

Q. Did they leave together?

A. Yes, they did.

Q. They both left together, and you say that——

A. (Interrupting): That is, they left my office together.

Q. They left your office together and went out together. There wasn't any arrangements made about seeing you again or talking about the jewelry again? A. Not any.

Q. When you left the office and went out to the bar, did you take some of this jewelry with you?

A. Yes, I did.

Q. What was the purpose of that?

A. To look at it in the light.

Q. You took it out to the bar room?

A. That is right.

Q. Did you have any light in your office?

A. My office has no windows in it.

Q. No windows; no electrical lights in there?

A. Yes.

Mr. Flynn: That is all.

Mr. Wilson: That is all.

(The witness was excused.) [125]

RAOUL ALFRED COSENZA

was called as a witness in his own behalf, and being first duly sworn testified as follows:

Direct Examination

By Mr. Wilson:

Q. Will you state your name, please?

A. Raoul Alfred Cosenza.

Q. And where do you reside, Mr. Cosenza?

A. 4400 North 20th Street, Phoenix, Arizona.

Q. Are you a married man and a family man?

A. Yes, I am, sir; I have four children.

Q. Your business is what as of this time?

A. As of this time I am a liquor license broker and I tend bar at night. I am working extra right now.

Q. How old a man are you, Mr. Cosenza?

A. 32 years old, sir.

Mr. Flynn: How old?

A. 32.

Q. (By Mr. Wilson): Are you a native Arizonan?

A. Yes, sir; I am, sir, born here in Phoenix.

Q. You went to the public schools of this city?

A. Yes, sir; public schools, high school and went to Tucson and went to school there. [126]

Q. Your business during the years '48, '49 and '50 was what?

A. Well, most of my business at that time was liquor license broker. I specialize in locating licenses for people and then I handle establishments.

(Testimony of Raoul Alfred Cosenza.)

Q. Were you a licensed broker?

A. Yes, sir; I was.

Q. License issued by the State of Arizona?

A. Yes, sir.

Q. Do you still have such a license?

A. I don't for this year, but I did up until this year.

Q. Are you acquainted with the witness, George Henry Booth?      A. Yes, I am.

Q. About when did you first become acquainted with him?

A. Approximately September in 1948.

Q. And under what circumstances?

A. I was tending bar up at the Veteran's club on East Washington Street, approximately the 5900 block, East Washington.

Q. Are you a veteran?      A. Yes, I am.

Q. That was in the month of September you say, [127] 1948?

A. Approximately September, '48.

Q. Did you then thereafter engage in the sale of liquor licenses in conjunction with Mr. Booth?

A. I did, sir.

Q. Will you tell the circumstances of that very briefly?

A. The license was in Jesus Panchos' name in Superior, Arizona, and we sold it to Leo Block and Ralph Stetson, and had located a license at Oracle Junction at Oracle, Arizona.

Q. How did you happen to become acquainted with Mr. Booth in connection with that?

(Testimony of Raoul Alfred Cosenza.)

A. Well, Mr. Booth had come out to the club and he and this gentleman he was with were discussing about a liquor license in Pinal County. Being a bartender, and I serve them, I interrupted their conversation and I asked them, I said, "If you are looking for a liquor license, that is my business, I know where we can find one in Pinal County."

Q. That was your first acquaintance with Mr. Booth, was it?      A. Yes, sir.

Q. Did you complete a deal to transfer the [128] license?      A. Yes, sir.

Q. Thereafter, did you have any business relations of any kind with Mr. Booth?

A. After that time he came to my house asking about liquor licenses and different leads that he had, one included that he had found here in Phoenix.

Q. Now, about when was that—what date was it that he visited your home?

A. Approximately March or April, sir, of '49.

Q. Let me ask you, how many visits, if you can recollect, did he make to your home?

A. About two, sir, at my home.

Q. Do you know whether or not on any of those visits he made any present either to you or to your wife?

A. I believe on the second visit he gave my wife some stamps for a stamp collection that she has.

Q. Your wife is a stamp collector?

A. She is a stamp collector, yes, sir.

(Testimony of Raoul Alfred Cosenza.)

Q. Other than that have you had any business dealings with Mr. Booth?      A. No, sir.

Q. How often, from September, or after [129] you completed that first liquor transaction with Mr. Booth, how often did you see Mr. Booth on an average, generally?

A. Oh, once every three or four months, I can't tell.

Q. Did you know where Mr. Booth resided at that time?      A. No, sir.

Q. Where would you see him then?

A. Usually when I was tending bar at some bar in Phoenix.

Q. Did you engage in any burglaries or other law violations in the City of Tucson?

A. Absolutely not.

Q. With Mr. Booth or any of his cohorts?

A. No one, sir.

Q. Were you at any time ever given any cameras, guns or any other loot from any burglaries committed by Mr. Booth or anyone connected with him in Tucson?

A. I was not at any time.

Q. Was your home ever searched by the police officers in an attempt to discover such articles?

A. Yes, it was.

Q. Were any of such articles ever found?

A. No, sir; except stamps that my wife [130] surrendered to the officers.

Q. Was it ever disclosed to you or to your wife, to your knowledge, that these stamps were the result

(Testimony of Raoul Alfred Cosenza.)

of any of his law violations?      A. No, sir.

Q. Reference has been made to some coins. Was any coins, foreign coins ever given to you by Mr. Booth?      A. None, sir.

Q. Or any ever given to your wife, to the best of your knowledge?

A. The only coins that my wife had in her possession were given to her by her brother, my brother and myself back in '45 and '46 after the war.

Q. Were they foreign coins?

A. They were foreign coins. They were Philippine, Chinese, Japanese, and then there was European coins, French, German Occupation money and that type of coin; European coins.

Q. As a result of the service of these various gentlemen in foreign military service of the United States?      A. That is right, sir.

Q. Do you know whether or not the police officers had taken those and still have those [131] coins?

A. They still have them in their possession. They have never returned them to us.

Q. Mr. Cosenza, did you have any connection with the El Rancho bar in '49?      A. I did, sir.

Q. And what was it?

A. I was running the bar on a percentage basis for the summer months, June and July.

Q. When did you terminate your employment at the El Rancho bar?

A. Approximately August 1st, sir.

Q. Were you working, or around that bar at



(Testimony of Raoul Alfred Cosenza.)

any time during the months of August or September of '49?      A. I was not.

Q. You heard the testimony of Mr. George Henry Booth from that same witness stand, didn't you, this morning?      A. I did, sir.

Q. In which he told us about the conversation had in the latter part of August or the early part of September about proposed burglaries, that is?

A. That is right, I heard the testimony.

Q. Did you have any such conversation [132] with him at that bar or anywhere else?

A. No, sir.

Q. You heard him identify or place that conversation either at the El Rancho bar or at the Jefferson Bar, is that right?

A. That is right, sir.

Q. Was there any such thing at that time as the Jefferson Bar?

A. There was no such thing as the Jefferson Bar.

Q. When was that Jefferson Bar first established, to the best of your knowledge?

A. We established it the latter part of August. By "we," I mean, Skipper Hooper and I located the license from——

Q. (Interrupting): When was it opened for business?      A. November 8th.

Mr. Thurman: Let him answer the question, please. I was listening, I was interested in that question.

(Testimony of Raoul Alfred Cosenza.)

Mr. Wilson: May I have the question?

(The question was read by the reporter.)

Q. (By Mr. Wilson): Were you tending bar there during the months of August, September or October? A. I was not, sir. [133]

Q. Were you even working there at any of that time?

A. The only work I was doing is supervising work of installing the equipment, plumbing and wiring it, but it wasn't a job.

Q. When did that take place?

A. That took place from the last period, approximately the first part of October up to the opening day, which was November 8th.

Q. Were you at either bar then during the latter part of October, at a time when Mr. Booth says he returned from his burglaries in Oklahoma and had a conversation with you?

A. I was not, sir. I believe the latter part of October I was at Los Angeles.

Q. Going back—you say you were tending bar during the month of June and July at the El Rancho? A. Yes, sir; I was.

Q. Did you have any business transaction with Mr. Booth during the month of July?

A. The only transaction, sir, was a \$40.00 check.

Q. Will you narrate the circumstances under which that check—

A. (Interrupting): The best I can remember, that [134] night it was a pretty busy night and it

(Testimony of Raoul Alfred Cosenza.)

was the first days of July and at the time he was there and he asked me to cash a check for him and which I did.

Q. What was the amount of the check?

A. \$40.00, sir.

Q. Did you cash it? A. I did, sir.

Q. Was it deposited for the account of the El Rancho? A. That is right, sir.

Q. Do you know whether or not the check was honored by the bank?

A. It was not and it was returned to the El Rancho and I had to make the check good.

Q. When did you next see George Henry Booth after that episode of that check in July, 1949?

A. Approximately the first day of December.

Q. The same year? A. '49, yes, sir.

Q. After you went to work in the month of November for the Jefferson Cocktail Lounge, what were your hours of employment?

A. My hours of employment were—I was manager and I used to come down around noon, 1 o'clock, to see if we needed anything and about that time, [135] after the opening, from November 8th, I think, up until the holidays, we were serving hors d'oeuvres and I used to make the hors d'oeuvres and I would return and come to work at 5 o'clock and work to one o'clock.

Q. In the morning? A. Yes.

Q. How much time would you put in at noon?

A. An hour, hour and a half, whatever was necessary. Sometimes it was a little longer. They

(Testimony of Raoul Alfred Cosenza.)

were loading beer into the basement, our store room into the basement and I would take a little longer.

Q. At that time did you have any connection with Mr. Skipper Hooper? A. Yes, sir.

Q. What connection?

A. I was locating a license in November for Mr. Hooper that went to the Kennel Club, that is the Greyhound Dog Park here, and to complete this deal we had to have a Number 7 license, because the gentleman that owned the Number 6 in the Kennel Club wanted a 7 in return, plus his money, and we had been unable to find a Number 7, which is a beer and wine license, and I was in the process of searching for one at that time and I [136] had discovered one from a lady and I returned to Mr. Hooper's office to ask him if he would pay the lady's price for her license.

Q. What was the price?

A. \$1,650.00, sir.

Q. Did you have any conversation with Mr. Hooper respecting that deal on or about the first day of December?

Mr. Thurman: I object to it, I have been letting it go. I don't see the materiality of it, this man's activities searching for a license for people. I can't see it and I object to it; it is irrelevant, incompetent and immaterial.

The Court: Yes, I will sustain the objection.

Q. (By Mr. Wilson): Were you in Mr. Skipper's bar room on the first day of December?

A. I was, sir.

(Testimony of Raoul Alfred Cosenza.)

Q. Did you see Mr. Skipper, as we call him?

A. Yes, sir; I did.

Q. Where did you see him at that time?

A. In his office.

Q. At about what hour of the day, if you can recollect?

A. The best of my recollection it was around one o'clock, 1:15—1:30, right in through there.

Q. Was Mr. George Henry Booth there at [137] that time when you went there?

A. When I first went into the office?

Q. Yes.           A. No, he was not, sir.

Q. Did any conversation you had with Mr. Hooper at that time have anything to do with George Henry Booth or any jewelry?

Mr. Thurman: I object, it is irrelevant, incompetent and immaterial, a self-serving declaration of this defendant.

Mr. Wilson: Well, I don't know.

The Court: Yes, you just ask him what was said.

Q. (By Mr. Wilson): All right. What was your conversation then at that time with Mr. Hooper?

A. We discussed a Number 7 beer and wine license that he needed to complete his deal, and we did not discuss anything about jewelry or anything else.

Q. What was said about this Number 7 license?

Mr. Thurman: I object.



(Testimony of Raoul Alfred Cosenza.)

The Court: Yes, it does not tend to prove any issue in this case.

Q. (By Mr. Wilson): All right. Mr. Cosenza, you heard the testimony of Mr. George Henry Booth that on that date or about that date you came out to [138] a house located in the 1500 block on West Madison Street in a white or light colored Buick automobile, I believe, did you hear that testimony this morning? A. Yes, sir; I did.

Q. Did you own such a car at that time?

A. No, I did not, sir.

Q. Did you later on acquire such a car?

A. I did, sir.

Q. Did you have any car, automobile at all at that time? A. None at all, sir.

Q. You used the busses, did you, public busses to get around?

A. I usually used busses or I borrowed a car from one of my employers, Mr. Davidson.

Q. After you completed your business transaction with Mr. Hooper on the first day of December, or about that, where did you go?

A. I went outside to the bar and I ordered a drink and when I turned around to the cocktail lounge I saw George Booth sitting in one of the booths.

Q. Had you seen George Booth from the time he passed that check up to that minute?

A. No, sir. [139]

Q. What did you do then, if anything?

A. I walked over there towards him and I said,



(Testimony of Raoul Alfred Cosenza.)

"Hello," and I asked him where he had been and he told me he had been to California.

Q. Did he have any bag or anything else in his hand?

A. No, he didn't, sir. He asked me if Mr. Hooper was in the office. He said, "I'd like to show you and Mr. Hooper something."

Q. What happened; go ahead.

A. We walked into the office and Mr. Hooper was sitting at his desk and Mr. Booth displayed his jewels and then proceeded to try to sell them.

Q. Can you give us the conversation that ensued?

A. Well, the only thing I can remember, sir, he was trying to sell them and he wanted a lot of money for it and he didn't say anything like he testified here from this witness stand that they were stolen; he did not say that, and he did not say they were stolen in Oklahoma or anywhere else, and, he just, well, was just trying to sell them all like it was his business to sell jewelry, that is all.

Q. Have you seen the jewels that have been offered in evidence here? [140]

A. I have not seen them, sir.

Q. Well, showing you these various exhibits representing these jewels, can you recollect at this time whether you saw any of these jewels there on Skipper's desk?

A. I saw these three pieces.

Q. Had you ever seen any of that jewelry prior to that time?

A. No, sir.

(Testimony of Raoul Alfred Cosenza.)

Q. Did you ever pay a visit to this mysterious house located in the 1500 block on West Madison Street?      A. Absolutely not.

Q. Do you know where it is located?

A. I don't even know.

Q. Do you know what house it is?

A. No, sir.

Q. Did you ever at any time ever point out any house to be burglarized by Mr. Booth at any time?

A. No, sir.

Q. In that lot, or anywhere?

A. Nowhere, nowhere else, sir.

Q. Or, did you have him go down and rob or burglarize the premises that belonged to any relative of yours, an aunt or any relative? [141]

A. Of course not.

Q. Did you at any time ever have in your physical possession any jewelry that Mr. Booth had in his possession?

A. None at all, sir, at no time did I ever have any of the jewels.

Q. Well, let me ask you if, during the course of that conversation in Mr. Skipper's office, Mr. Skipper left there at any time?      A. He did, sir.

Q. And about how long was he gone, if you know?

A. About four or five minutes, I'd say.

Q. During that time did you have any conversation with Mr. George Henry Booth?

A. I did, sir.

(Testimony of Raoul Alfred Cosenza.)

Q. And could you enlighten the jury, please, as to what that conversation was?

A. Well, he was saying that he did not want to sell that jewelry piece by piece because he already had an offer for all of it for \$6,000.00, and he went on to tell me who the people were that was interested in buying the jewelry from him, and he, himself, mentioned Mr. Art Funk, Mr. Don Stewart, Mr. Haddad, Mr. Murphy, one of the Schiatte's, and he said that this Mr. Charley [142] Kobus had contacted these people for him and that is why he didn't care whether anyone gave him the \$10,000.00 or not, because that is what he was going to get for it and that was the end—when Mr. Hooper came back into the room, that was the end of the meeting, and that was it.

Q. Do you know whether or not any mention was made at any time during the course of that day while talking with Mr. Booth about this \$40.00 check?

A. I mentioned that check there to him; in fact, at first, and I asked him for my money and he said, "As soon as I sell some of this I will bring the money to you at the Jefferson Cocktail Lounge" where I told him I was working at that time.

Q. Is that about all that happened in that rear room at that time?

A. Yes, sir; that was about all.

Q. From that point on, what did you do and what did Mr. Booth do as far as you could observe him?

A. From that time on I stepped out of the office

(Testimony of Raoul Alfred Cosenza.)

and I went back to my drink that was on the bar and I believe there was a liquor salesman or someone there and I started talking to him and [143] Mr. Booth went out by himself, because I stayed there a few minutes, and after I left I went home, because it was my custom to go home to put on my white shirt to come to work and eat my dinner because I had to be back at 5 o'clock to go to work.

Q. Well, did you see Mr. George Henry Booth after that time, after that date?

A. Do you mean that day, sir?

Q. No, after that date.

A. I saw him a couple or three days later at the Jefferson Cocktail Lounge, yes, sir.

Q. Was he in company with anyone?

A. Not that one day.

Q. Did you have a conversation with him?

A. Yes, I did.

Q. Will you please tell the jury what your conversation was?

A. Yes. I asked him again if he brought me the money for this check that I had to pay, pay it and make it good, and he said he had not and he didn't have the money, but he was still in the process of having to sell these jewels and he was very, very braggartly about it and boasting about it that it would just take a little time, so then he left again and I—— [144]

Q. (Interrupting): Did you see him after that then?

A. I did, he came back once again, yes, sir.

(Testimony of Raoul Alfred Cosenza.)

Q. Did you have a conversation with him on that second visit?      A. Yes, I did.

Q. And about what time of the month was that second visit?

A. I'd say it was approximately the 9th or 10th of the month.

Q. Of December, 1949?

A. December, 1949.

Q. And were you on duty at the time?

A. Yes, I was.

Q. Was he with anybody at that time?

A. No, sir; he was by himself.

Q. Will you tell the jury, please, what conversation you had with him at that time?

A. Well, we started talking about the check again when he walked into the bar, so I saw that I was not getting anywhere with the man. Right away he started talking about this liquor license deal we sold in '48, he and I, the Superior, Arizona, license, and he said he got the short end out of this transaction, so I—he was argumentative at the bar. I said, "George, if you [145] want to discuss anything like that let's walk into the restroom." We walked back into the restroom there, the men's restroom. I told him right then and there I would rather have him stay out of the place and not to give me any more arguments and trouble and he could keep the check and we could just call things square, that I would just as soon have my peace of mind and not my work disrupted by him coming in and out of the place.



(Testimony of Raoul Alfred Cosenza.)

Q. Did he leave?

A. Yes, he did leave, left mad.

Q. Did you give him the check?

A. Yes, I did give him the check.

Q. Did he ever return to the bar room after that?

A. Yes, a couple of nights later he came in with Charley Kobus.

Q. Did you know this Charley Kobus prior to that time?

A. I didn't know him too well but I know him as an acquaintance, that is all.

Q. Did you have a conversation with Mr. Booth?

A. I did.

Q. Again in the presence of Charley Kobus?

A. Well, they sat at the bar. Of course, I served them and as soon as I served them then they [146] started making slurring remarks and started a little trouble there and, of course, Mr. Kobus made a couple of remarks there too and Mr. Booth, and the thing is, I told them right then and there, I said, "I don't want to have any trouble in this place, we just opened, and if you can't act like gentlemen I wish you both would not come back," so they must have suspected that I was going to call the police officers——

Mr. Thurman (Interrupting): Just a minute, please, what they suspected, I object to that as irrelevant, immaterial and incompetent.

The Witness: Well, District Attorney, when we have trouble——



(Testimony of Raoul Alfred Cosenza.)

The Court (Interrupting): Oh, just answer the question.

Q. (By Mr. Wilson): Well, did you have trouble with them?

A. Yes, I did have trouble with them.

Q. Did you call the police officers?

A. No, sir; I did not. They left.

Q. Was anything said by either of them, by Mr. Booth particularly as they were leaving to you?

A. Yes.

Q. What was said? [147]

A. He said. "I will get even with you for this," and left.

Q. When was the next time after that you ever saw George Henry Booth?

A. In the Commissioner's office in this building last June, 1950.

Q. At the preliminary hearing?

A. Yes, sir; my preliminary hearing.

Q. Mr. Cosenza, after the search of your premises on the 5th day of June, 1950, I believe, were you interviewed at the police station by the police officers respecting George Henry Booth?

A. Yes, I was, sir.

Q. What time did that take place, that conference with the police?

A. Approximately one o'clock.

Q. No, I mean, what date, was it on the 7th day of June?

A. I believe it was the 7th day of June.

(Testimony of Raoul Alfred Cosenza.)

Q. Where were you between the 5th and the 7th day of June?      A. I was in Casa Grande.

Q. How were you advised that you were wanted at the police station?

A. My wife advised me when I returned from Casa Grande. [148]

Q. What did you do when so advised?

A. I went to Mr. Sorenson and asked him to go down, called and surrendered myself to the police and asked them if I am charged with something I want to know what I am charged with, and "Here I am. If you want to ask me any questions, you can ask them."

Q. Did you have a conversation in which Mr. Nichols and Officer Roberts were present?

A. They were present, yes, sir.

Q. Did you have a conversation at that time?

A. I answered some questions they asked me.

Q. That was about one o'clock in the afternoon, you say?      A. Yes, sir.

Q. Can you tell us what the conversation was, or what questions were asked and what your answers were?

A. Yes, they asked me if I knew George Henry Booth. I told them, "Yes, I knew George Henry Booth," and then they went on about if I had in my possession guns, cameras, stamps, money and everything else. I said, "I didn't have in my possession any guns, cameras, or anything else." They asked me if I had in my possession any diamonds, jewelry,

(Testimony of Raoul Alfred Cosenza.)

and then I says, "No, I don't [149] have any diamonds or anything else," so then they just kept asking me questions trying to say to me to admit—I admitted nothing, I had done nothing. Mr. Sorenson was there present with me.

Q. Were you asked about the episode at Skipper's on the first of December?

A. Yes, sir. They asked me about that. I admitted seeing the jewelry and I admit it from the stand. I saw the jewelry.

Q. At the conclusion of the conference was any statement made to you by the officers as to whether or not they would want you back?

A. They said they would like to hold me because the FBI wanted to question me. We told them any time they wanted me all they had to do was to call me and I would report down to the FBI's office or anywhere else for questioning.

Q. Were you informed that they had a warrant then in their possession for your arrest?

A. I was not informed of any warrant at that time.

Q. Were you later arrested that day?

A. I was arrested at 6 o'clock that evening, that evening when I returned with Mr. Sorenson to supposedly answer questions of the FBI, and I was arrested on a state charge. [150]

Q. Have you ever engaged in any law violation or advocated or executed or induced or persuaded George Henry Booth or anyone else to burglarize any house, or to violate any law in any respect,

(Testimony of Raoul Alfred Cosenza.)

Mr. Cosenza? A. I know I have not, no.

Q. Did you receive any loot from any of the law violations or depredations of Mr. George Henry Booth? A. I have not.

Q. Have you concealed or attempted to help him conceal any loot or fruits from any of his burglaries or law violations at any time?

A. I have not, sir, I have not.

Mr. Wilson: You may cross-examine.

The Court: The court will stand at recess until 10 in the morning. Keep in mind the court's admonition.

(Thereupon a recess was taken at 4:15 o'clock p.m. of the same day.) [151]

Ten o'clock a.m., April 13th, 1951, all parties as heretofore noted by the Clerk's record, being present, the trial resumed as follows:

**RAOUL A. COSENZA**

resumed the witness stand and testified further as follows:

The Court: Do you want to cross-examine this witness?

Mr. Thurman: I didn't know whether he was through or not.

Mr. Wilson: We rested last night.

The Court: I thought so, too.

**Cross-Examination**

By Mr. Thurman:

Q. You say the only business you were in with

(Testimony of Raoul Alfred Cosenza.)

Mr. George Booth was the brokerage of liquor licenses?      A. Just that one liquor license.

Q. Just that one liquor license and that was all?

A. That was the only business I had with George Booth.

Q. Then you never did transact any business with him for the purchase and sale of [152] zircons?      A. No, sir.

Q. Never at any time?      A. No, sir.

Q. I will ask you if it isn't a fact that George Booth would purchase those zircons in California and bring them into Arizona and you and he would sell them here in Phoenix, Arizona?

A. No, sir.

Q. Now, do you know what a zircon is?

A. No, I don't, sir.

Q. You never saw one?

A. If I seen one I don't remember.

Q. Now, when was it that Booth gave you this check he mentioned?

A. The early days of July, sir.

Q. Huh?

A. The first days of July. I don't know exactly what day it was.

Q. The first days of July, '49, correct?

A. Yes, sir.

Q. And you returned it to him in the men's restroom when?

A. At the Jefferson Cocktail Lounge approximately around December.

Q. September?      A. December. [153]



(Testimony of Raoul Alfred Cosenza.)

Q. December?

A. Approximately around the 8th or 9th, sir.

Q. Approximately around the 8th or 9th?

A. '49.

Q. And that was after you had been there at Skipper Hooper's Buffet here in Phoenix, Arizona, and seen this jewelry for the first time?

A. That is right, sir.

Q. Now, what bar were you employed at at the time that Booth gave you this check?

A. The El Rancho at 24th Street and Camelback Road.

Q. And who was the owner and proprietor of that?

A. Lydel and Hazel Hiett.

Q. Who?

A. Lydel and Hazel Hiett—H-i-e-t-t.

Q. And they are husband and wife?

A. Yes.

Q. And the wife, Hazel, she had quite a bit to do with the operation of that place, did she?

A. Yes, she does.

Q. And while they were away you were operating it, weren't you?

A. No, sir; I was operating under a percentage basis like I explained to you yesterday, on a [154] percentage basis. My wife and I operated it on a percentage basis.

Q. There wasn't anybody else there but you and your wife in the operation of it at that time?

A. No, Mrs. Hiett was there. She came in, and they were there.

Q. They were there all the time?



(Testimony of Raoul Alfred Cosenza.)

A. Not all the time, no, sir. We were running it, but it was still under her supervision.

Q. Under Hazel Hiett's supervision?

A. That is right, sir.

Q. And when did you leave their employment?

A. Which particular time, sir?

Q. We will say the last time.

A. I am working for them now.

Q. You are still working for them?

A. No. That is what I am asking you, what particular time?

Q. Well, say in the month of September, '49?

A. I was not working for them then.

Q. You weren't working for them?

A. No. Under that particular percentage lease that we had, I believe, to the best of my knowledge it ended around the 15th or 18th day of July.

Q. Then you went to work for them [155] again?

A. I went to work in 1950 again for them.

Q. How long did you work then?

A. I believe I worked extra for them at Duffy's Tavern, which they owned also at Sunnyslope, and I worked off and on for them. Anytime they wanted me to do extra work, they called me.

Q. You still do that?

A. Yes, sir; I am doing that right at the El Rancho, and I started this last time two weeks before the holidays and I am supposed to be working after the holidays and I am still working.

Q. When did Booth give those stamps to your wife?

(Testimony of Raoul Alfred Cosenza.)

A. To the best of my knowledge, if I recall, it was in April, '49.

Q. And after that you only saw Booth once in every three or four months, is that correct?

A. Yes, sir; I just saw him, I just saw him once or twice.

Q. Never had any business transactions with him at all?      A. No, sir.

Q. Now, on this first day of December, 1949, or about the first day of December, you went in to see Skipper that day, didn't you?

A. Yes, sir; I did. [156]

Q. And what time did you go in to see Skipper that day?

A. It must have been 12:30 or one o'clock, because Mr. Skipper didn't come down there until that time.

Q. If he wasn't there you would not have gone to see him?      A. That is right, sir.

Q. You knew when Mr. Skipper gets there?

A. That is right, sir, I did a lot of work for them.

Q. You had a lot of business with Skipper?

A. That is right, sir.

Q. You are still doing business with Skipper?

A. That is right, sir.

Q. Then you came out and you found Booth there, didn't you?      A. I did, sir.

Q. And you and he had a drink?

A. I had a drink. He was already having a

(Testimony of Raoul Alfred Cosenza.)

drink in the booth. I ordered a drink at the bar just like I testified yesterday.

Q. How did you and Booth get back into Skipper's office?

A. He asked me, "Is Skipper in the office?" I presumed he was sitting there, you know, to see if [157] Skipper was there, so he asked me that. I said, "Yes, he is in the office," and he says, "Well, I'd like to see him—come here, I want to show you something."

Q. And what did you do then?

A. I walked into the back office with Booth.

Q. Then what took place?

A. Booth showed the jewelry.

Q. You stayed in there while it was being shown?      A. Yes, sir.

Q. And it was just accidental you were there at the same time Booth was there?

A. It was accidental, yes, because I had been coming in there every day and this particular time because of that license transaction that we had.

Q. Now, you said in your direct examination that Booth came into Skipper's office just the same as any other salesman on jewelry would approach him?      A. That is right.

Q. There was nothing unusual about the way Booth handled this jewelry that he had on him?

A. It was nothing unusual about it, not the way he handled it. [158]

Q. Is that the usual thing that happens in Skipper's place when people come in with jewelry?

A. No, sir.

(Testimony of Raoul Alfred Cosenza.)

Q. Just how do they handle it?

A. That was the only time I have ever seen any jewelry in Skipper's place.

Q. And he had this jewelry in that paper bag, you say?

A. I didn't say he had it in a paper bag. I don't recall what he had it in. Now, since this has all come out in the testimony I believe it was in a paper bag.

Q. And you think that is usual for it—the usual and customary way for a jewelry salesman to handle their jewelry?

Mr. Wilson: I object on the ground it is calling purely for a conclusion of the witness.

Mr. Thurman: That is what he said on your examination of the witness, that is what he admitted on cross, too.

The Court: All right, go ahead.

(The last question was read by the reporter.)

The Witness: I have no knowledge of jewelry salesmen, how they handle their business.

Q. (By Mr. Thurman): This jewelry, you are familiar with this jewelry that is here in this court room, [159] aren't you?

A. I recognized it yesterday, yes, sir.

Q. And you saw it there in the room?

A. I saw the three pieces I recognized there, yes, sir.

Q. Which three pieces did you recognize (handing the articles to the witness)?

A. Those three, sir. (handing articles to Mr. Thurman).

(Testimony of Raoul Alfred Cosenza.)

Q. While you were in there, Skipper left with this piece, did he not, and leave the office with it?

A. I don't remember what piece he took out, sir.

Q. Well, do you remember whether he took any piece out or not?

A. I don't even recall that, sir.

Q. Now, are you acquainted with Mrs. Lona Lane?

A. I know her just as an acquaintance.

Q. And you met her with Mr. Booth, did you not?

A. I met her at the bar with Mr. Booth, just only a bar acquaintance, that is all.

Q. You met her in several different bars during the months of April, May, June and July, [160] August and September, here in Phoenix, Arizona, did you not?

A. I did not, sir. I met her at the El Rancho in July.

Q. Only once?

A. To the best of my knowledge, yes, it was only once. There I saw her in company with Mr. Booth.

Q. Didn't she enter into conversations that you had with Booth with respect to the sale of these zircons?

A. No, sir.

Q. Now, whatever transactions you had with Booth were always handled in cash, weren't they?

A. Transactions of what kind, sir?

Q. Well, you say the only transaction you ever had was the sale of one liquor license?



(Testimony of Raoul Alfred Cosenza.)

A. That was handled through Mr. Sorenson and he was the escrow agent and he paid us out of the escrow account by check.

Q. It was given—Sorenson gave you the check or did he give it to Booth?

A. He gave us each our part that was coming to us.

Q. What is that?

A. The part that was coming to us, he gave [161] us each individual checks out of his escrow account.

Q. Now, isn't it a fact that in the latter part of April or the early part of May, on a Sunday morning, that you called Mrs. Lona Lane on the telephone and in substance said to her, "Is George there?," to which she said, "No," and then you said to her, "Tell him that the coins are okay," and she then said, "What do mean?" and you said, "George would understand"?

A. I had never made a phone conversation of that kind to Mrs. Lane.

Q. I will ask you if it is not a fact that during the early part of September, 1949, in Phoenix, Arizona, that you again called Mrs. Lona Lane and said to her, in substance: "When will George be home?" She said, "I do not know for sure"?

A. I have never called Mrs. Lane.

Q. And isn't it a fact that here in Phoenix, Arizona, during the first part of September, '49, you went to 17th Avenue and Adams where the Industrial Commission is located here in Phoenix, Arizona, and where Mrs. Lona Lane works, and



(Testimony of Raoul Alfred Cosenza.)

that you said to her, in substance: "Do you have any of George's money?," didn't you ask her that?

A. No, sir. [162]

Q. And didn't she ask you—didn't she tell you at that time, "No," and then say, "Why?," and you said, "Because the zircons that we sold to a guy and he got wise and is screaming his head off and wants his money back," do you remember that?

A. I answered the question before. I did not make this conversation with her.

Mr. Thurman: That is all.

Mr. Wilson: That is all.

(The witness was excused.)

Mr. Wilson: Mrs. Cosenza.

### DOROTHY COSENZA

was called as a witness on behalf of the defendant, and being first duly sworn, testified as follows:

#### Direct Examination

By Mr. Wilson:

Q. Your name, please?

A. Dorothy Cosenza.

Q. You are the wife of Mr. Raoul Cosenza, the defendant here on trial?      A. Yes.

Q. And your residence is where, Mrs. Cosenza?

A. 4400 North 20th Street.

Q. Mrs. Cosenza, do you possibly know of [163] a gentleman by the name of George Booth?

A. Well, I don't know him well. I know him, I have seen him a couple of times, that is all.

(Testimony of Dorothy Cosenza.)

Q. Do you know whether or not he ever paid a visit to your home at this address during the months of March or April, '49?

A. Well, he was there about twice.

Q. Did you hear any conversation between him and your husband?

A. My husband was not home at the time he was there.

Q. Did you ever receive a present of any kind from Mr. Booth?

A. He gave me some stamps which I have collected for years and which other stamps you can send away in any magazine for 50 cents.

Mr. Thurman: I object to that, adding to a simple question. The answer could be yes or no.

Q. (By Mr. Wilson): On which of the visits that he paid there at the house did he give you the stamps? A. The second time.

Q. On the occasion of the first visit, did you know what his business was?

A. Yes, they say—he came to see if my husband had liquor licenses to sell. [164]

Q. Did he state that to you at that time?

A. Yes, he did.

Q. Do you know whether or not he saw the stamps or the stamp collection at that time?

A. Mr. Booth?

Q. Yes.

A. Yes, he did. I had my book out there and I was putting in some stamps in the book at the time he was there.

(Testimony of Dorothy Cosenza.)

Q. Was there any discussion with Mr. Booth on the occasion of that visit respecting your stamp collection?

A. Well, he just asked me if I collected stamps and I said, "Yes."

Q. Then about how long after that was it that he made the second visit to your home?

A. Well, the best I can remember, it was about a month later.

Q. And what was the purpose of his visit then, if you know?

A. Well, he wanted to—he brought those stamps out to me and gave them to me then he wanted to know if Mr. Cosenza had this license and I told him no.

Q. Was anything else ever given to you additional to the stamps? [165]

A. No, just some stamps.

Q. Was there any coins given you?

A. No.

Q. Did you at that time collect coins?

A. I did, I had a collection of my own too that my family had given me, from my brother-in-laws and my uncles and my mother and my own brothers from overseas, foreign coins.

Q. Did you ever receive any such presents from Mr. Booth, meaning coins?

A. No, he never gave me any coins.

Q. When Mr. Booth gave you the stamps, did he make any statement at all as to the source of

(Testimony of Dorothy Cosenza.)

those stamps, where he had got them or anything about them?

A. No, he just gave them to me for my collection.

Q. Will you describe the stamps that he gave you, please, on that occasion?

A. They are stamps you can send away in these magazines, in an issue in any magazine, and pay 50 cents for one envelope marked 50 cents a hundred and another envelope a dollar a hundred or a dollar and 50, something like that, just ordinary stamps.

Q. Had you ever gotten some stamps [166] yourself?

A. Yes, sir; through the magazines. I have them pasted in my scrap book at home.

Q. Mrs. Cosenza, were you at your residence here about the 5th day of June, '49?

A. At my house?

Q. Yes.

A. No, I was working.

Q. Well, I may have the wrong date. Directing your attention to a possible visit made by a couple of police officers by the name of Mr. Nichols and Mr. Roberts? A. Yes.

Q. Did they ever come to your house?

A. Yes, they did, both of them.

Q. Was it about that time?

A. Yes, sir.

Q. Did they make a search of your house?

A. They did, they went through everything.

(Testimony of Dorothy Cosenza.)

Q. Was your husband there at the time?

A. No, he was not, my husband was out of town.

Q. Was there any conversation at all had between you and these officers?

A. Well, they asked me if I had some stamps there and I gave them the stamps and they asked me if I had some other stuff and I said, "No, [167] I have never had anything in the house," and they went through the house, they searched it completely and they took my coin collection, that was my own, and they took those stamps. I gave them the stamps.

Q. You say they did ramsack the house?

A. They certainly did, they went through everything.

Q. Do you know whether or not one of the officers held a conversation with Mr. Booth over the telephone while they were at your house in the process of this searching?

A. Yes, they did. It was Mr. Roberts, I am pretty sure——

Mr. Thurman (Interrupting): I object, the proper foundation has not been laid for any conversations.

Q. (By Mr. Wilson): During the months of June and a portion of July, where were you working?

A. At the El Rancho bar on 24th and Camelback.

Q. Was your husband working there at that time, Mrs. Cosenza?      A. Yes, he was.

Q. Do you know when, or approximately when



(Testimony of Dorothy Cosenza.)

you and your husband severed your connections with the El Rancho bar? [168]

A. Well, it was in July, sometime around the 15th or something like that, I don't know exactly the date, but it was in July.

Q. Did you or your husband work at the El Rancho bar during the months of August, September, October, November or December of '49?

A. No.

—Q. Did you have any connection with that bar or around there at all after you severed your relations in the bar in the middle of July, '49?

A. No.

Q. Do you know when your husband went to work for the Jefferson Cocktail Lounge?

A. Yes, it was——

Q. (Interrupting) What month it was?

A. ——November.

Mr. Wilson: You may cross-examination.

### Cross-Examination

By Mr. Thurman:

Q. Didn't your husband work periodically at the El Rancho bar after he left there in July?

A. No.

Q. Never went on for an extra shift or anything?

A. No, not at the El Rancho. [169]

Q. He has never been to work there since?

A. Yes, he is working there now.

Q. At the El Rancho?



(Testimony of Dorothy Cosenza.)

A. Yes, but he is not working there steady, he is working there extra shifts.

Mr. Thurman: That is all.

Mr. Wilson: That is all.

(The witness was excused.)

Mr. Wilson: Mr. Tony Cosenza.

### MARK ANTHONY COSENZA

was called as a witness on behalf of the defendant, and being first duly sworn, testified as follows:

#### Direct Examination

By Mr. Wilson:

Q. Will you state your name, please?

A. My name is Mark Anthony Cosenza?

Q. You are a brother of the defendant on trial, Mr. Raoul A. Cosenza, are you?

A. Yes, sir; I am his brother.

Q. Mr. Cosenza, have you ever gone under the name of Paul?      A. No, sir; no, sir. [170]

Q. How many boys are there in your family; that is, in your parents' family?

A. Just Raoul and I.

Q. The defendant on trial and you, is that right?

A. Yes, sir.

Q. Have either of you, to your knowledge, ever gone under the name of "Paul"?

A. No, sir.

Q. Are you acquainted with a detective of the

(Testimony of Mark Anthony Cosenza.)

police force of the City of Phoenix by the name of Mr. Nichols?        A. No, sir.

Q. To your knowledge, have you ever seen such a gentleman at all?

A. No, sir; I have never seen him.

Q. Were you ever interviewed by any of the police officers of the City of Phoenix, or anyone else respecting any matters connected with George Henry Booth from the sale of a camera?

— A. No, sir; I have not.

Mr. Wilson: Will you have Mr. Nichols step in, please, I just want to be sure.

(Whereupon Detective Fred Nichols was called in the courtroom.) [171]

Mr. Wilson: That is the gentleman I refer to as Detective Nichols, have you ever up to this moment ever seen that man before?

A. No, sir; I never have.

Mr. Wilson: That is all, you may cross-examine.

Mr. Thurman: No cross-examination.

(The witness was excused.)

Mr. Wilson: Hazel Hiett.

## HAZEL L. HIETT

was called as a witness on behalf of the defendant, and being first duly sworn, testified as follows:

## Direct Examination

By Mr. Wilson:

Q. Will you state your name for the jury, please? A. Mrs. Hazel L. Hiett.

Q. Mrs. Hiett, do you and your husband own and operate the El Rancho bar?

A. Yes, sir.

Q. Out on 24th and Camelback, here in the valley? A. Yes, sir. [172]

Q. Approximately how long have you owned that bar, Mrs. Hiett?

A. Well, this last time about three years.

Q. You were the owner of the bar, then, during the months of June, July, August and September of '49, were you? A. Yes, sir.

Q. Are you acquainted with the defendant, Mr. Raoul Cosenza, now on trial?

A. Yes, sir.

Q. Do you know his wife, Mrs. Cosenza, Dorothy Cosenza? A. Yes, sir.

Q. Did you have any business relations, you and your husband, with Mr. and Mrs. Cosenza during the months of June and July, '49?

A. Yes, sir.

Q. And what were those business relations, Mrs. Hiett?

A. Well, he and his wife were bartender and waitress for us during that period of time.

(Testimony of Hazel L. Hiett.)

Q. All right. Do you know when they severed their connection with the El Rancho bar?

A. Well, at that time I would say about the middle of July, the 15th.

Q. Do you know what basis they had for [173] operating there?

A. Yes, sir; he and his wife were to receive one half of the net profit in payment for wages.

Q. Did Mr. or Mrs. Cosenza, either one, have any connections with the bar or work around there during the months of August, September, October, November of '49?

A. No, sir; I don't think so.

Q. Did you operate the bar during that time I have just named? A. Yes, sir.

Q. You would know whether they had any employment there during that time? A. Yes, sir.

Q. Mrs. Hiett, Mr. Cosenza has since that time worked extra, I believe, is that right?

A. Yes, sir; he is working there extra some now.

Mr. Wilson: You may cross-examine.

### Cross-Examination

By Mr. Thurman:

Q. And during the months of June and July of '49, you were in and about the premises there at the bar, were you? A. Yes, sir. [174]

Q. At the El Rancho, I believe you call it?

A. Yes, sir.

Q. And you kept pretty good track of what went through the till, did you?

(Testimony of Hazel L. Hiatt.)

A. Well, as close as you can.

Q. Did you have occasion there to pick up a check that Mr. Cosenza had run through the cash register for \$40.00 that was returned "No account"?

A. Well, yes, sir; there was one returned.

Q. When was that?

A. Well, I don't remember exactly. It has been quite a while ago.

Q. Was there anything significant about the particular check that you have in mind?

A. Well, Mr. Cosenza eventually paid it, if that is what——

Mr. Thurman: That is all—do you know who signed the check?      A. I don't believe I do.

Mr. Thurman: That is all.

(The witness was excused.)

(Thereupon the defendant left the Court room.) [175]

### WOODROW S. DUKE

was called as a witness on behalf of the defendant, and being first duly sworn, testified as follows:

#### Direct Examination

By Mr. Wilson:

Q. Your name is what?

A. Woodrow S. Duke.

The Court: Just a minute, the defendant is not

(Testimony of Woodrow S. Duke.)

here. The trial is supposed to be had in his presence. Better go get him and tell him to stay there.

Mr. Wilson: Go get him and tell him to be here.

(Thereupon the defendant returned to the Court room.)

Q. (By Mr. Wilson): And, Mr. Duke, your business is what, please?

A. At the present time I am a salesman, sir.

Q. And what was your business during the month of December, 1950?

A. I was in the bar supply business then.

Q. And by whom were you employed?

A. Myself.

Q. At that time were you acquainted with Mr. Cosenza, the defendant here on trial? [176]

A. Yes.

Q. And how long had you been acquainted with him at that time in December of 1950?

A. Well, how many years, or——

Q. Well, yes, approximately?

A. Oh, quite a few years, I guess.

Q. Were you doing business with Mr. Cosenza during the month of December?

A. I was supplying the bar that he worked at.

Q. And where was Mr. Cosenza working during the month of December, to your knowledge?

A. The Jefferson Lounge.

Q. Are you acquainted with a man by the name of George Henry Booth?

A. No, sir.



(Testimony of Woodrow S. Duke.)

Q. Or, are you acquainted with a gentleman by the name of Charley Kobus? A. No, sir.

Q. Were you present in the bar on any occasion when Mr. Cosenza had any trouble?

A. Yes.

Q. With a couple of gentlemen. About when was it, Mr. Duke, that you know of?

A. Well, as I remember, it was just a little bit before Christmas. The exact date, I don't [177] know.

Q. And was there any other people in the bar room at that time?

A. Well, there was a few other people in there, as I remember it.

Q. Did you hear any conversation between Mr. Cosenza and these two gentlemen?

A. Vaguely.

Q. Will you state to the jury what the conversation was?

Mr. Thurman: He said, "Vaguely." I object, no proper foundation laid for it.

The Court: He said these were "gentlemen." That is not a very adequate identification for some of these people.

Mr. Wilson: May we have Mr. Booth brought into the court room?

The Court: All right.

Mr. Wilson: Let me ask you while we are waiting for the arrival of Mr. Booth, Mr. Duke, do you know whether or not one of these men was a Mexican?

(Testimony of Woodrow S. Duke.)

A. Well, I don't know what his nationality was, but he was kind of dark.

(Thereupon George Henry Booth entered the court room.)

Mr. Wilson: Now, the first gentleman that [178] walked in there is the gentleman I referred to as Mr. Booth. Take a look at him, please.

(The witness complies.)

Mr. Wilson: That is all, you may go.

(Thereupon George Henry Booth left the court room.)

Q. (By Mr. Wilson): Can you identify that man as either of the men that you saw at the bar on this occasion?

A. I don't know. He looks a little familiar.

Q. Well, on that date that you fixed, at about what hour of the day was it, or of the night, that you heard this conversation?

A. It was between, about 9 or 10 o'clock at night.

Q. And at that time what was the conversation that you heard?

Mr. Flynn: Same objection.

The Court: Just a minute. Do you know whether this man you just saw was one of these people?

A. Well, he looks sort of.

Q. Well, are you positive or not?

A. No, sir; I am not positive of it.

Mr. Wilson: What is the ruling of the Court, may I ask?

The Court: Well, the objection will be [179] sustained. Bartenders have rows with a good many gentlemen.

Mr. Wilson: All right, that is all.

The Court: That will be all.

(The witness was excused.)

Mr. Wilson: Bryce Long.

(The bailiff returned to the Court and reported the absence of the witness Bryce Long.)

Mr. Wilson: Well, the witnesses were served with a subpoena and he is down looking at the parade, so I am informed by the bailiff.

The Court: Well, do you want the marshal to go get him with a bench warrant?

Mr. Wilson: No. If the court cares for recess for five minutes we probably could get him up here. Instead of sending the marshal down to get him, I don't know that the marshal is acquainted with him or not.

The Court: He probably could find him, he does a pretty good job on that. Well, we will have our morning recess at this time. Keep in mind the Court's admonition.

(Thereupon a short recess was taken, after which, all parties as heretofore noted by the clerk's record being present, the trial resumed as follows:) [180]

The Court: You may proceed.

Mr. Wilson: I understand the witness is not

available, although under subpoena, so the defendant will rest at this time with the right to call character witnesses later.

The Court: All right. [181]

In Rebuttal for the Government

Mr. Flynn: Call Mr. Hemphill.

CHARLES HEMPHILL

was called as a witness on behalf of the Government, and being first duly sworn, testified in rebuttal as follows:

Direct Examination

By Mr. Flynn:

Q. You may state your name.

A. Charles Hemphill.

Q. And what is your business or occupation?

A. Special agent, Federal Bureau of Investigation.

Q. How long have you been with the Bureau, Mr. Hemphill?

A. Ten years.

Q. You are now stationed at Phoenix, Arizona?

A. Yes, sir.

Q. I will ask you, Mr. Hemphill, if you were present at a conversation with Mr. Skipper Hooper in the FBI office in this building on or about the 7th day of June, 1950, at which you were present, two police officers, Roberts, Nichols, Mr. Booth and Mr. Connor, the other agent here, [182] and Mr. Hooper?

A. Yes, sir; that is true.

Q. I will ask you if at that time and place, Mr. Hooper stated, in substance, as follows, in reference

(Testimony of Charles Hemphill.)

to the time that the jewelry was displayed to him in his office in Phoenix by—in the presence of Mr. Booth, and referring to Mr. Booth and Mr. Cosenza, the defendant here, if he stated at that time in substance that Mr. Cosenza had the jewelry in his possession, that Mr. Booth was called into the conference after Cosenza had spread the jewelry out on his desk?           A. That is true.

Q. Did Mr. Hooper make that statement?

A. Yes, sir.

Mr. Flynn: That is all.

#### Cross-Examination

By Mr. Wilson:

Q. Was that conference stenographically reported?           A. No, sir.

Q. Don't you usually on an important matter like that have the exact language used by the witnesses?

A. Very seldom unless he is the defendant. [183]

Q. I see. Were you contemplating a charge against Mr. Hooper?

A. It is not for me to bring charges, Mr. Wilson, Mr. Flynn does that.

Q. You make a report, though?           A. Yes.

Q. Do you recommend prosecution or not in these cases?           A. No, sir; we do not.

Q. Then when was this matter actually reduced to writing and the language of the witness quoted?

A. I am not certain of that. Mr. Connor here could probably testify to that.



(Testimony of Charles Hemphill.)

Q. Who reduced it to writing in the report that the United States Attorney read from?

A. I don't know. Mr. Connor could tell you that.

Q. When was it reduced, do you know that?

A. I don't know. It was shortly after that.

Q. It could have been sometime after that, couldn't it, Mr. Hemphill?

A. Yes.

Q. Or longer than that?

A. Yes, sir.

Q. You were investigating a lot of gentlemen besides Mr. Hooper, were you not, in [184] connection with this matter?

A. Yes, sir.

Q. That of Mr. Funk and Mr. Don Stewart and Mr. Haddad?

A. I was not; I personally was not.

Q. But as far as we know, these words were probably quoted, maybe, as long as two weeks after the witness had actually testified at this meeting, is that right?

A. So far as I know, it could have been, yes, sir.

Q. Do you know who made the report?

A. I believe Mr. Connor did.

Q. Was Mr. Connor present at that meeting?

A. Yes, sir.

Q. But you don't know when he made it?

A. No, sir.

Q. Or you are not sure he did make it?

A. I am reasonably sure that he did.

Mr. Wilson: That is all.

(The witness was excused.)

Mr. Flynn: Call Mr. Connor. [185]



## WILLIAM M. CONNOR

was called as a witness on behalf of the Government, and being first duly sworn, testified in rebuttal as follows:

## Direct Examination

By Mr. Flynn:

Q. You may state your name and occupation.

A. William M. Connor, Special Agent, Federal Bureau of Investigation.

Q. You are stationed here at Phoenix?

A. Sir?

Q. You are stationed here at Phoenix?

A. Yes, sir.

Q. How long have you been with the FBI?

A. A little over ten years.

Q. I will ask you if you were present at a conversation that Mr. Hemphill testified to on the 7th of June, in the FBI office, in the presence of Mr. Hemphill, two police officers and Mr. Booth and Mr. Hooper, and I will ask you if at that time and place, in an interview, that Mr. Hooper stated, in substance, in reference to the jewelry being displayed to him in his office, that Mr. Cosenza had possession of the jewelry and that Mr. Booth was called into the conference after Cosenza had spread the jewelry out on his [186] desk. Did Mr. Hooper make that statement, in substance?

A. Yes, sir; he did.

Mr. Flynn: Cross-examine.

(Testimony of William M. Connor.)

Cross-Examination

By Mr. Wilson:

Q. Do you have the exact language?

A. That was reported in substance, sir.

Q. Oh, that is the substance of it?

A. Yes, sir.

Q. And that is the substance taken out of possibly a half hour's statements by Mr. Hooper, is that right?

A. Well, I wouldn't say a half hour's statement by Mr. Hooper.

Q. How long would you say, Mr. Witness?

A. Mr. Hooper didn't actually make a statement. It was kind of a conversation between Mr. Hooper and Mr. Hemphill.

Q. What was the rest of the conversation, then, what were the rest of the words used by the witness Mr. Hooper?

A. Mr. Hooper became very much outraged——

Q. No, what were the rest of the words, Mr. Witness, in the conversation, not what Mr. [187] Hooper became?

A. You want what Mr. Hooper said?

Q. Yes, I want to know what the rest of the conversation was. You said you had taken out just the substance of a long conversation in the sentence that was just read to you.

A. With the court's permission I could quote some of it verbatim.

The Court: Go ahead, tell him what he wants.

(Testimony of William M. Connor.)

A. Mr. Hooper said, "What the hell is the idea of calling me over to this god damn place?" He said, "I am a legitimate businessman around this town and you are treating me like a crook."

Mr. Wilson: Is that the substance of a half hour's testimony by Mr. Hooper?

A. That was the substance of the opening statement by Mr. Hooper.

Q. Go ahead.

A. He enlarged on that at considerable length, and the information that I wrote later which actually pertained to the transaction in the bar probably occupied less than five minutes of Mr. Hooper's time.

Q. And this sentence is the substance of a five minute testimony by Mr. Hooper, is that right?

A. Well, five minutes conversation. It was [188] not testimony, no, sir.

Q. At that time you had many people under investigation? A. Yes, sir.

Q. Were you making notes of what all the witnesses that you interviewed were saying at that same time? A. Yes, sir.

Q. Could you have gotten any of these statements confused with what some other witnesses told you? A. No, sir.

Q. When did you write up that report with reference to the time the statements were made?

A. That was originally written up within, I can't say exactly, you understand?

Q. Well, certainly.

(Testimony of William M. Connor.)

A. But within ten days.

Q. Ten days, you say?           A. Yes, sir.

Q. Do you, in the conduct of the Federal Bureau of Investigation, do you make a practice of taking back the statement after you write it up to the witness to have him verify it and sign it?

A. This was not—no statement, as such, [189] was ever taken from Mr. Hooper.

Q. This is your report being made by the Federal Bureau of Investigation to the United States Attorney, is that right?           A. Yes, sir.

Q. And purports to only give a substance of what the witness has said in a lengthy conversation with the agents?           A. Yes, sir.

Q. And does the report contain any other matters that Mr. Hooper stated there in that long conversation that pertained to this case at all?

A. No, sir.

Q. Is that all that the report contains, then, with reference to Mr. Hooper, simply that he made, in substance, a certain statement?

A. Yes, sir.

Q. That is all your report contains to the United States Attorney, is that right?

A. That is not what I said. You asked if that was all that it contained with reference to the pertinent statement made by Mr. Hooper.

Q. That is right.

A. Yes, sir; that is all it contained, yes, [190] sir.

Q. And the rest of the report has to do with

(Testimony of William M. Connor.)

various other witnesses on other cases connected with Mr. Booth, is that right?

A. To the report, do you have reference to?

Q. The report that you made from which Mr. Flynn just read.

A. No, sir; it does not.

Q. Did you make other reports respecting those other matters?

A. Reports are made in all cases. Mr. Booth was a case and reports were made in Mr. Booth's case, yes, sir.

Q. Were you present in the Grand Jury room when Mr. Hooper testified?

A. No, sir.

Mr. Wilson: That is all.

(The witness was excused.)

Mr. Flynn: Call Mr. Roberts.

### HARRY ROBERTS

was recalled as a witness for the Government, and testified in rebuttal, as follows: [191]

#### Direct Examination

By Mr. Flynn:

Q. Mr. Roberts, you were sworn and testified yesterday?

A. Yes, sir.

Q. I will ask you, Mr. Roberts, if you—you didn't testify, you were just sworn?

A. No, I didn't, I was just sworn to testify.

Q. I will ask you, Mr. Roberts, if you were present in an interview in the FBI office on or about the 7th day of June of last year?

(Testimony of Harry Roberts.)

A. I was.

Q. In which Mr. Booth was present, Mr. Hemp-hill and Mr. Connor, the Federal agents, and your other police officer, Mr. Nichols and Mr. Hooper?

A. That is correct.

Q. I will ask you if at that time and place Mr. Hooper, in your presence and hearing, and in the presence of these other men made a statement in reference to the jewelry which was shown to him in his place of business which, in substance was, as follows: that Mr. Cosenza had the jewelry in his possession and Mr. Booth was called into the conference after Cosenza had spread the jewelry out on his desk? [192]

A. That is correct.

Mr. Flynn: You may cross-examine.

### Cross-Examination

By Mr. Wilson:

Q. Did you have anything to do with making of the report to the United States Attorney respecting that conversation of Mr. Hooper?

A. I beg your pardon?

Q. Did you have anything to do with making the report?

A. No.

Q. To the United States Attorney?

A. No.

Q. Did you ever see the report after it was written up?

A. No, I didn't.

Q. Do you know when it was written up?

A. No, I don't.

Q. Was there any stenographer there reporting



(Testimony of Harry Roberts.)

the exact words that Mr. Hooper employed in that lengthy conversation?      A. No, sir.

Q. How long was Mr. Hooper there in front of your committee in this interview?

A. Oh, I'd say approximately a half hour. [193]

Q. And that statement is simply the substance, then, of a half hour's conversation, is that right?

A. That is what he said, yes.

Mr. Wilson: That is all.

Mr. Flynn: That is all.

(The witness was excused.)

Mr. Thurman: Mrs. Lona Lane.

### LONA LANE

was called as a witness on behalf of the Government and testified in rebuttal, as follows:

#### Direct Examination

By Mr. Thurman:

Q. Mrs. Lane, where do you live?

A. 433 North Oakland Avenue.

Q. During the year, '49, where did you live here in Phoenix, Arizona?      A. 1553 West Madison.

Q. There is nothing mysterious about that place, is there?      A. Not that I know of.

Q. Now, who lived with you there at 1553 West Madison during the year '49? [194]

A. My three children and the son of George Booth.

Q. What is George Booth's son's name?

(Testimony of Lona Lane.)

A. His name is George. We call him "Buck."

Q. You knew Mr. Booth quite a while, did you not?

A. Quite a while.

Q. During that period of time, and when did you first meet Mr. Booth, Mrs. Lane?

A. I met him in '44.

Q. In '44, and what association did you have with him, say, during the year '48?

A. Friendship.

Q. Or '49 or '48, friendship. What about the telephone, and things of that kind?

A. He had his telephone transferred to my house.

Q. When was that?

A. Well, that was in '48 when I lived at 1640 West Madison.

Q. And then after you moved from 1640 West Madison to 1553 West Madison, did you have the telephone installed in this new residence?

A. After a few months I was able to get my own phone and then I had his disconnected and my own phone put in. [195]

Q. Then you did have a phone at all time at 1553 West Madison?

A. Yes.

Q. In your association with Mr. Booth did you become acquainted with the defendant here?

A. I did.

Q. Where did you first meet the defendant?

A. I don't know exactly where. It was in '48 when George and Mr. Cosenza were in this liquor transferring business.

(Testimony of Lona Lane.)

Q. In '48? A. Yes.

Q. And what time in '48 was it?

A. I can't say specifically when, approximately late summer.

Q. And what other business that you know of did Mr. Booth and this defendant carry on together other than these liquor licenses?

Mr. Wilson: We object to it on the grounds it is not material, improper redirect examination and not offered as rebuttal.

The Court: Go ahead, you may answer.

A. They were selling zircons.

Q. (By Mr. Thurman): Tell the court and jury what a zircon is?

A. It is a synthetic stone similar to a [196] diamond.

Q. And how were these zircons obtained?

A. Through Los Angeles.

Mr. Wilson: We object to it, if the court please, calls for a conclusion of the witness.

The Court: If she knows it is not a conclusion.

The Witness: Obtained them from firms on the Coast, Los Angeles.

Q. (By Mr. Thurman): How long did they continue this business together?

A. I'd say three or four months.

Q. Did they do any of this particular business in the year '49?

A. I think through the spring.

Q. Through the spring of '49?

A. Through the spring.

(Testimony of Lona Lane.)

Q. Now, during this period of time, Mrs. Lane, were you employed at any place?

A. With the Arizona Industrial Commission.

Q. Huh?

A. With the Arizona Industrial Commission.

Q. And you are still there, are you?

A. Yes, sir.

Q. And where is the Arizona Industrial Commission located here in Phoenix? [197]

-- A. At the corner of 17th Avenue and Adams, the Capitol annex.

Q. Were you there in the year '49?

A. Yes, sir.

Q. '50? A. Yes, sir.

Q. From '48 up to '49, how many times did you have occasion to meet up with this defendant here?

A. Oh, numberless times—many times.

Q. Where did you meet with him?

A. Various bars.

Q. Who would you be with?

A. Mr. Booth.

Q. And did you and Booth and this defendant ever have any conversations about anything?

A. About the zircons.

Q. About the zircons, and do you remember that during the latter part of April or the early part of May, of '49, on a Sunday morning, that you received a call from this defendant who, at that time and in that conversation, said, in substance, "Is George there?" that you said, "No," then the defendant said, "Tell George all of the coins are

(Testimony of Lona Lane.)

okay,” and that you then said, “What do you mean?” and the defendant said that [198] “George would understand.”?

Mr. Wilson: To which we object, if the court please, on the ground it attempts to impeach upon the immaterial point.

The Court: She may answer, go ahead.

A. I do.

Q. (By Mr. Thurman): Isn't it a fact that during the early part of September of '49, that this defendant again called you by telephone in the early part of September, '49? A. Yes, sir.

Q. And in substance said: “When will George be home?” and your answer was, “I do not know for sure”? A. That is right.

Q. Isn't it a fact that during the first part of September, '49, while you were employed at the Industrial—the Arizona Industrial Commission on 17th Avenue and Adams Street in Phoenix, Arizona, that this defendant came to that place and in a conversation with you at that time said to you, “Have you any of George's money?” to which you said, “No,” and, then, “Why”——

Mr. Wilson (Interrupting): To which we object——

Mr. Thurman (Continuing): ——and the defendant [199] then said, “Because the fellow that bought the zircon is crying his head off, he wants his money back”?

Mr. Wilson: To which we object, attempting to impeach upon an immaterial point.



(Testimony of Lona Lane.)

The Court: Oh, she may answer.

A. That is right.

Mr. Thurman: Do you know of your own knowledge how they handled the sale of these zircons?

Mr. Wilson: We object on the ground it is not material in this case.

The Court: Go ahead.

A. They sold them for diamonds.

Mr. Thurman: Huh?

A. They sold them for diamonds.

Mr. Thurman: That is all.

A. Passed them as diamonds.

The Court: Your witness.

### Cross-Examination

By Mr. Wilson:

Q. You say that Mr. Booth had his telephone transferred to your residence?

A. That is right.

Q. Did Mr. Booth take up his residence at that same place? [200] A. He did not.

Q. Did he keep any of his personal effects at your residence, Mrs. Lane? A. He did not.

Q. You say you have three children of your own?

A. That is right.

Q. And you were taking care of one of Mr. Booth's?

A. After I moved over at 1553 West Madison.

Q. And you were working every day yourself?

A. That is right.

Q. How did you take care of those children?



(Testimony of Lona Lane.)

Mr. Thurman: I object as irrelevant, immaterial and incompetent, she is not up here for——

The Court: Yes.

Q. (By Mr. Wilson): You were quite well acquainted, then, were you, with Mr. Booth's activities? A. Yes, sir.

Q. Respecting the zircons which he would buy on the Coast, is that right? A. That is right.

Q. I understand from your direct examination. Were you ever present when he ever bought any?

A. I ordered them for him and they came to my house by mail. [201]

Q. I understand that you knew that they were to be offered here by him as real diamonds, is that what I understand from your direct examination?

A. That is right.

Q. You were assisting him in that fraud, were you? A. I didn't assist him.

Q. Did you know of Mr. Booth's other activities while you were associated with him?

A. That is all the other activities he had at that time.

Q. Just the sale of that liquor license at that time with Mr. Cosenza and then the matter of these zircons, is that right, that is all you ever knew of?

A. That is right.

Q. Are you here to testify that that is the only activities of any kind that he had?

A. So far as I knew.

Q. You, from your direct examination, I understand that you went out with Mr. Booth frequently

(Testimony of Lona Lane.)

and attended various bars, is that right, Mrs. Lane?

A. That is right.

Q. And in the course of those occasions you met Mr. Cosenza? [202]

A. Well, he was working in a couple of bars. We visited him at both of those places.

Q. That was in '48 or '49? A. '49.

Q. Beg pardon? A. '49.

Q. And were those visits to Mr. Cosenza approximately every month or every week?

A. Oh, by the week, it might be every two or three nights or it might not be.

Q. Did these visits to the bars where Mr. Cosenza was working, did they occur every month throughout the year '49? A. No, sir.

Q. Did you know of any nocturnal activities on the part of Mr. Booth about that time in which he would burglarize houses while associated with you?

A. When was this?

Q. In '49.

Mr. Thurman: Just a minute, I object to the form of the question—"burglarizing houses while he was associated with the witness." There is no evidence that he ever took this witness with him.

Mr. Wilson: I am not trying to say that he [203] took the witness, during her association, during the year '49.

The Court: Did you know of any burglaries committed during that period?

A. I had of them, yes.

(Testimony of Lona Lane.)

Q. (By Mr. Wilson): Were those burglaries over in Oklahoma or in Texas, or east?

A. Yes, sir.

Q. What ones at that time did you know he committed here, locally?      A. No specific ones.

Q. Did you know that Mr. Booth was going to Oklahoma, going to commit burglaries?

A. Not when he went there I didn't know.

Q. When he returned did you see the jewelry?

A. I did.

Q. That was about the first of December or the last of November, the first of December when he returned?      A. That is right.

Q. And he left when?

A. I don't think he left until around January sometime.

Q. No, I mean, when did he leave on that trip from which he returned on the first of December?

A. The end of August or the first of [204] September.

Q. He went on that trip and then you again saw him when he returned about the last part of November or the first of December, is that right?

A. Yes.

Q. You didn't see him between those times at all?      A. That is right.

Q. Were you working every day during that period of time here in Phoenix?      A. Yes, sir.

Q. Directing your attention to the month of October, are you sure in the latter part of October you didn't see Mr. Booth in this town?

(Testimony of Lona Lane.)

A. He came back—he made so many trips it is difficult for me to be specific about the times. I can't say that he didn't return once or twice during that period.

Q. But did you see him?

A. If he was here in town I saw him.

Q. Was he here in town?

A. I can't remember whether he was in town that time or not. As I say, he made various trips.

Q. When did you first see any of the jewelry?

Mr. Thurman: I object, it is irrelevant, incompetent and immaterial as far as this witness' [205] testimony is concerned, your Honor. She said she seen it. I don't think it makes any difference.

The Court: If she remembers she can answer.

The Witness: I can't remember whether it was the first of December, or if he came back down those times.

Q. (By Mr. Wilson): You can't remember those dates, is that right? A. No.

Q. Nor the approximate time?

A. I can't say when it was.

Q. Where did you see them, in your home?

A. No, in his car.

Q. And you continued to associate with Mr. Booth after that time, is that right?

A. I did.

Q. Did you receive as a gift from Mr. Booth any of that jewelry? A. No, I did not.

Q. Did you attempt to assist him in disposing of any of this jewelry? A. I did not.

(Testimony of Lona Lane.)

Q. Did you disclose to any peace officer or anybody about that jewelry and where Mr. Booth got it?

A. I did not. [206]

Q. Mr. Booth was arrested sometime in the year '50, wasn't he, up at Reno, Nevada?

A. He was.

Q. Were you arrested at the same time, Mrs. Lane? A. I was not.

Mr. Thurman: I object as improper cross-examination, your Honor. I don't see the materiality of it.

The Court: The witness answered. I don't either.

Q. (By Mr. Wilson): Were you confined in jail for any period of time? A. I was not.

Q. Have you been offered any immunity by any of the officers for your testimony here?

A. I have not.

Q. To your knowledge, has any complaint ever been filed against you charging you with a criminal offense? A. No, sir.

Q. Did Mr. Booth keep any of that jewelry at your home? A. Not with my knowledge.

Q. He was there every day, was he not?

A. In and out. [207]

Q. After he returned from this trip about the first of December? A. Yes, sir.

Q. Did he take meals with you there at the home? A. No, sir.

Q. Where was he living, do you know?

A. No specific place. He just stayed in various motels or hotels.

Q. Now, can you be a little more exact on the



(Testimony of Lona Lane.)

dates of these purported conversations that you had with the defendant, Mr. Cosenza?

A. You mean a definite day?

Q. Yes.

The Court: If you can't, why say so.

A. I can't.

The Court: You can't do that, I am certain, no one else can.

Q. (By Mr. Wilson): Could you place the month that any of these conversations happened?

A. It was either September or October, '49, that he came to the office to see me.

Q. September or October, a period of 60 days, there, but you don't know when?

A. No, that is right.

Q. And who was present when you talked [208] to Mr. Cosenza?

A. No one was present.

Q. He walked right up into that public office there at the Industrial Commission, is that right?

A. We have a counter where applicants come and are interviewed and he came there and called for me and spoke to him.

Q. And the telephone conversations took place at your home, is that right?

A. That is right.

Q. Was the number registered in your name or that of George Booth at the time?

A. The first one was under George's name.

Q. You had your first one, I believe you said, in April, '49?

A. Sir?



(Testimony of Lona Lane.)

Q. You had your first telephone conversation in April, is that right?

A. April or the first of May.

Q. And that had to do with what?

A. It was a telephone message he left for George.

Q. And during all of that time that these telephone conversations were coming in you and Mr. Booth were seeing Mr. Cosenza around these [209] bars nearly every day, is that right, Mrs. Lane?

A. Most of the phone calls would be while George was away. He was away lots of that time.

Q. He was not away in April, was he?

A. A part of the time, probably.

Q. Probably, you say?

A. I can't be specific.

Q. But you do know that it was in September that he left here to go to Oklahoma to commit this series of burglaries, do you?

A. I know it was the end of August that he bought a car. He was without a car at that time and he bought this car to travel around in.

Q. So that he was gone during the month of September, was he?      A. Yes, sir.

Mr. Wilson: That is all.

Mr. Thurman: You may be excused, and thank you.

(The witness was excused.)

Mr. Thurman: Mr. Fred Nichols.

FRED NICHOLS

was recalled as a witness for the Government and testified in rebuttal as follows: [210]

Direct Examination

By Mr. Thurman:

Q. Mr. Nichols, you were a witness in this case for the Government yesterday, were you not?

A. Yes, sir; I was.

Q. And since you have been excused from the witness stand have you refreshed your memory as to the testimony—as to a part of the testimony that you gave while you were on the witness stand before?

A. Yes, sir; I did.

Q. And it is your desire to correct one statement that you made at that time?

A. That is correct.

Q. Due to the fact you were in error?

A. That is right, I was.

Q. Will you please tell the court and jury the correction you wish to make.

A. When I stated yesterday that the defendant's brother Paul had told us in regards to the camera which was tried to be sold to him for \$75.00. In relation to Paul telling us, it was Booth that told us that, that he said the defendant tried to sell it for \$75.00.

Mr. Wilson: We object, if the court please, on the ground that *it hearsay* evidence entirely [211] and we move that it be stricken and the jury instructed to disregard it.

The Court: Well, that is a part of what Booth

(Testimony of Fred Nichols.)

said. The officer's correction may stand, certainly, otherwise he might be indicted for perjury.

Mr. Thurman: When did you discover your error, Mr. Nichols?

A. After I left here I went down and read up on the report to see if I was correct, which I was wrong when I said it was Paul that we contacted and made the remark they tried to sell it to him for \$75.00. Instead of that, it was Booth that told us that.

Q. You brought that message to Mr. Flynn and myself?

A. Yes, I told you that early this morning.

Mr. Wilson: We object to that——

Mr. Thurman (Interrupting): I think he has a right to show the picture on anything of that kind. You may cross-examine.

#### Cross-Examination

By Mr. Wilson:

Q. As a matter of fact, Mr. Nichols, Mr. Connor of the FBI told you yesterday that you were [212] mistaken on that, didn't he?

A. He did not, no.

Q. Did you discuss it with the FBI agent yesterday afternoon after this court recessed?

A. I did not.

Q. Did you have any discussion at all respecting the evidence in this case with Mr. Connor?

A. I did not.

Mr. Thurman: I don't see the materiality of it, your Honor. He has made the correction, that is as

(Testimony of Fred Nichols.)

far as he can go, regardless who called it to his attention.

The Court: All right, all right, just calm down.

Mr. Wilson: That is all.

The Court: That is all.

(The witness was excused.)

The Court: Call your next witness.

Mr. Thurman: That is all, your Honor.

The Court: We will have the arguments after lunch.

Mr. Thurman: I understand they have some more witnesses.

The Court: Who?

Mr. Thurman: The defense. [213]

Mr. Wilson: Well, we want to call our character witnesses at 2 o'clock.

The Court: All right, we will stand at recess until 2. Keep in mind the court's admonition.

(Thereupon a recess was taken at 11:45 o'clock a.m. of the same day.)

(2 o'clock p.m. after recess, all parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:)

R. O. BARRETT

was called as a witness on behalf of the defendant, and being first duly sworn, testified as follows:

Direct Examination

By Mr. Wilson:

Q. Will you state your name for the jury's in-

(Testimony of R. O. Barrett.)

formation, please?           A. R. O. Barrett.

Q. Mr. Barrett, you are a resident, are you, of Phoenix, Arizona?           A. Yes, sir.

Q. And you have resided here for how long?

A. Well, in Phoenix since '34; in the state, [214] since 1919.

Q. And throughout those years your business has been what?

A. Well, I was with the Federal Government—with the Federal Housing Administration as director for 12 or 13 years and then I have been in the mortgage business since.

Q. Here locally in Phoenix, Arizona?

A. Yes.

Q. What is the name of your company?

A. The Allied Building Credits.

Q. And you are the head of that company, are you, now?

A. Well, locally, I am the state manager.

Q. That is what I mean, and, Mr. Barrett, are you acquainted with the defendant on trial, Mr. Raoul Cosenza?           A. Yes, I am.

Q. How long, approximately, have you known Mr. Raoul Cosenza?           A. About four years.

Mr. Thurman: You say four or forty, pardon me?

A. Four.

Q. (By Mr. Wilson): How did you first become acquainted with him? [215]

A. He is one of our borrowers.

Q. He has a loan on his home, has he?

A. He does.



(Testimony of R. O. Barrett.)

Q. What is the ordinary custom of your company when an application is made for a loan as to whether or not the applicant is investigated?

Mr. Thurman: I object, it is irrelevant, incompetent and immaterial. If he is a character witness there is one way to go about it and not that way. I object to it.

The Court: All right.

Mr. Wilson: Did you sustain it?

— The Court: Certainly I sustained it.

Mr. Wilson: I could not hear it, your Honor.

The Court: Well, you know better than that.

Q. (By Mr. Wilson): Is that acquaintanceship an intimate one with Mr. Cosenza?

A. Oh, I'd say no, not intimate. I'd say casual.

Q. How often would you see him?

A. Oh, probably once a month.

Q. And have you and Mr. Cosenza mutual friends or acquaintances there?

A. Do I know anybody that he knows, or something?

Q. Yes. [216]

A. I presume I do, but I wouldn't know who they are.

Q. Well, by reason of that contact that you had with Mr. Cosenza and the relationship that exists between you for the past four years, do you know the general reputation which Mr. Cosenza bore on or about the first day of December, 1949, for honesty and personal integrity?



(Testimony of R. O. Barrett.)

Mr. Thurman: I object to it, the proper foundation has not been laid.

The Court: Go ahead and answer it.

A. Yes.

Mr. Wilson: And is that reputation good or bad?

A. Good.

Mr. Wilson: Cross-examine.

### Cross-Examination

By Mr. Thurman:

Q. You say you don't know any people he knows or not? A. I don't know as I do, Judge.

Q. Do you know where he lives?

A. Oh, yes, we have a mortgage on the house.

Q. That is how you know where he lives is because you got a mortgage on the house? [217]

A. Oh, yes, I know the house very well.

Q. That is the reason you know where he lives because you have a mortgage on it? A. Yes.

Q. You never visited him and his family, did you.

A. Yes, I did one day. I stopped in there just before Christmas when I was in the neighborhood and said "Hello" to him and met the family for the first time.

Q. Did you ever play cards with the family?

A. No.

Q. Have you gone to dances with them?

A. No.

Q. Did you attend any social function with them

(Testimony of R. O. Barrett.)

in that particular neighborhood? A. No, sir.

Q. All you know about this man is your business relationship with him, isn't that true?

A. That is true.

Mr. Thurman: That is all.

### Redirect Examination

By Mr. Wilson:

Q. Have you ever heard his honesty or personal integrity challenged by anyone? [218]

A. No.

Mr. Thurman: I object, he has already answered that his reputation was good.

The Court: He said he never heard it discussed. You never have heard it discussed?

A. No.

Mr. Wilson: That is all.

Mr. Thurman: No further questions.

(The witness was excused.)

Mr. Wilson: Mr. Harry L. Nace.

### HARRY L. NACE

was called as a witness on behalf of the defendant, and being first duly sworn testified as follows:

### Direct Examination

By Mr. Wilson:

Q. Your name is Harry L. Nace?

A. That is right.

Q. And, Mr. Nace, your business is what?

(Testimony of Harry L. Nace.)

A. Operating theaters.

Q. And you are a resident of Maricopa County, Arizona?

A. Yes, sir.

Q. And of Phoenix, particularly?

A. Yes, sir. [219]

Q. How long have you been a resident of this community?

A. Oh, better than 40 years.

Q. Are you acquainted with the defendant on trial, Mr. Raoul Cosenza?

A. Yes, I am.

Q. How long have you known Mr. Raoul Cosenza?

A. Well, since he was a school kid.

Q. And is that acquaintanceship an intimate one with him.

A. Well, it was more so through my son. They were quite pals.

Q. Did they visit back and forth at your residence?

A. Yes, quite a lot.

Q. Do you know whether you and Mr. Cosenza have mutual friends or acquaintances?

A. Oh, I think we do.

Q. And, Mr. Cosenza has lived in this community, has he, since you have known him?

A. Yes. I knew his mother and his family.

Q. You knew them, did you, intimately?

A. That is right.

Q. And do you know the general reputation which Mr. Cosenza bore on or about the first day of December, 1949, for honesty and personal [220] integrity, you know what his reputation was?

(Testimony of Harry L. Nace.)

A. Well, I have never heard anything adverse to what I have known him.

Q. Then you know what his reputation was as of that time, is that right?

A. I would say so.

Q. Is it good or bad?

A. I would say it would be good.

Mr. Wilson: You may cross-examine.

Cross-Examination

By Mr. Thurman:

Q. Mr. Nace, I assume the son you mentioned is Harry Nace? A. That is right.

Q. He has some official position with the Phoenix Senators, is that right?

A. That is right.

Q. Now, does this man and your son, does he come and visit your house now?

A. No, he does not.

Q. That was when they were school children, is that right?

A. Well, occasionally I have seen them together since then, and——

Q. (Interrupting): Now, you just answer [221] my question. They don't visit back and forth like they used to when they were school children?

A. I couldn't say that, because I don't know.

Q. In other words, they have their respective homes and they don't come to your home any more, isn't that right?

(Testimony of Harry L. Nace.)

A. Well, I haven't had a home, because I am a bachelor.

Q. Wherever you do stay they don't visit there back and forth any more?

A. Well, I really couldn't say anything about that, for the reason that Harry has his office in the front and I have mine in the back, I don't know who comes in and goes out.

Q. During the period of time when the defendant here and your son visited, as I understood, at your home here in Phoenix——

A. Oh, yes, a lot.

Q. How many years ago was that?

A. Well, that is quite a few years ago, I'd say.

Mr. Thurman: Thank you, that is all.

Mr. Wilson: That is all Mr. Nace.

(The witness was excused.)

Mr. Wilson: Mr. Beauchamp. [222]

### EDWARD BEAUCHAMP

was called as a witness on behalf of the defendant, and being first duly sworn testified as follows:

#### Direct Examination

By Mr. Wilson:

Q. Your name, please?

A. Edward Beauchamp.

Q. You are a resident of Phoenix, Arizona?

A. I am.

Q. And you are a practicing attorney at this time, is that right?      A. Yes.

(Testimony of Edward Beauchamp.)

Q. Have you ever occupied any official position in Maricopa County or the State of Arizona?

A. Yes.

Q. And what was that?

A. Deputy County Attorney, County Attorney and Judge of the Superior Court.

Q. And that covered a period of how many years?      A. Seven years.

Q. And how recently has it been since you severed your connection in any official capacity?

A. Approximately two years. [223]

Q. And how long have you resided in the City of Phoenix, Arizona, approximately?

A. Well, in the County 30 years; Phoenix, since 1925.

Q. And are you acquainted with the defendant on trial, Mr. Cosenza?      A. I am.

Q. How long have you been acquainted with Mr. Cosenza?

A. Oh, from the time we were kids; approximately 20 years, I would say.

Q. And throughout that period of time has your acquaintanceship with him been an intimate one, more or less?

A. No, not since high school. The last 15 years I did see him occasionally, but that is about all.

Q. Do you know, or let me ask you first whether or not Mr. Cosenza has lived in this community during the period of that acquaintanceship, to your knowledge?

A. Yes, he may have been gone a few years, or



(Testimony of Edward Beauchamp.)

something like that, I wouldn't know that, but generally speaking, he has been here during that period of time.

Q. You have seen him repeatedly during those years? [224]      A. I have.

Q. Do you know whether you and he have any mutual acquaintances, if any?

A. Well, I know we know lots of the same people.

Q. Well, do you know what the general reputation that Mr. Cosenza bore on or about the first day of December, 1949, is, for honesty and personal integrity in this community?

A. In a negative way, yes.

Q. And is it good or bad?      A. Good.

Mr. Wilson: You may cross-examine.

### Cross-Examination

By Mr. Thurman:

Q. You say "in a negative way"?

A. Yes.

Q. Do you know where he lives?      A. No.

Mr. Thurman: That is all.

(The witness was excused.)

Mr. Wilson: We will rest.

Mr. Thurman: We have nothing further for the Government, your Honor. [225]

The Court: All right, you may proceed with your argument.

Mr. Wilson: Just a minute, may we have the record show at this time—I don't know whether the court will want me to state this in the record in the presence of the jury or not, at the conclusion of the evidence.

The Court: You didn't make any at the Government's case.

Mr. Wilson: Well, I assumed that at the close of all of the evidence——

The Court: Well, go ahead.

— Mr. Wilson: Very well. The defendant moves for judgment of acquittal on Count 1 of the Indictment, on the grounds that the evidence is not sufficient to justify a verdict of guilty against the defendant, and on Count 2 of the Indictment, the defendant moves to dismiss such count in the indictment on the ground that it fails to charge an offense against the laws of the United States, and for judgment of acquittal on the second count on the ground that the evidence is not sufficient to justify a verdict of guilty against the defendant.

The Court: The motions are denied.

Mr. Wilson: All right. [226]

(Thereupon closing arguments were presented to the jury by counsel for both sides, after which a recess was taken.)

(After recess, all parties as heretofore noted by the Clerk's record being present, the trial resumed as follows:)

The Court instructed the jury, as follows:

The Court: It now becomes the Court's duty to

instruct you as to the law that applies to this case.

The first count of the indictment was read to you when you were examined on your voir dire and I will refer to it again.

It recites that on or about the 1st day of December, 1949, in the City of Phoenix, State and District of Arizona, the defendant did unlawfully and feloniously, at one time, receive from one George Henry Booth and conceal certain stolen jewelry, to wit, two diamond-studded watches, and so forth, all being of the approximate value of \$25,000.00, said jewelry having theretofore been stolen in Oklahoma City, State of Oklahoma, and transported in interstate commerce from the said Oklahoma City, Oklahoma, to Phoenix, Arizona, and the said defendant, Raoul A. Cosenza, then and there well [227] knowing that said jewelry had been stolen as aforesaid and was then and there in interstate commerce.

Now, the statute under which that first count is drawn reads, as follows:

“Whoever receives or conceals any goods, wares, merchandise or the value of \$5,000.00, or more, moving as, or which are a part of, or which constitute interstate commerce, knowing the same to have been stolen, shall be punished as the act provides”.

Count 2 is in this language: It recites that on or about the 1st day of October, 1949, in the State and District of Arizona, one George Henry Booth actually committed a crime in violation of Title 18, U.S.C.A., 2314. I will read you Section 2314. Under

this section I just read, 2315, that has to do with anyone who receives or conceals stolen property which is in interstate commerce.

Now, 2314, which is referred to in Count 2, reads, as follows:

“Whoever transports in interstate commerce any goods, wares, or merchandise of the value of \$5,000.00 or more, knowing the same to have been stolen, shall be punished as the act provides.”

Now, this Count 2 charges that George Henry Booth [228] committed an offense under this section I have just read, in that he transported this jewelry in interstate commerce, and that felony was cognizable by a court of the United States—well, that is a fact, it was—and that said George Henry Booth did, on or about the first day of October, 1949, transport and cause to be transported in interstate commerce, at one time, this jewelry in question, all being of the approximate value of \$25,000.00, from Oklahoma City, State of Oklahoma, to the City of Phoenix, State and District of Arizona, and that the said George Henry Booth then knew the said jewelry to have been theretofore stolen as aforesaid, and that Raoul A. Cosenza, the defendant herein, having actual knowledge of the commission of said felony; that is, the transportation of this jewelry by Booth, did, on or about the first day of December, 1949, in the State and District of Arizona, unlawfully and feloniously conceal the commission of said Federal offense and did not, as soon thereafter as possible, in said State and District, make known

the same to a judge or other person in civil or military authority under the United States of America.

Now, this second count is drawn under another section of [229] the code, which reads, as follows:

“Whoever having knowledge of the actual commission of a felony cognizable by a court of the United States conceals and does not, as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined and punished as the act provides.”

“Interstate commerce” as defined by the Federal statute includes commerce between one state, territory, possession or the District of Columbia, and another state, territory or possession or the District of Columbia.

By Count 1 of the indictment, the defendant is accused of having unlawfully and feloniously received and concealed certain stolen jewelry, knowing that said jewelry had been stolen and was then and there in interstate commerce.

The word “receive” as used in the statutes, means to accept, and to “accept” or “possess” means to have control, care and management and not a passing control, fleeting and shadowy in its nature, and before a person may be convicted of the crime of receiving or concealing stolen property, it must be established beyond a reasonable doubt, not only that such person knew [230] that such property was stolen and transported in interstate commerce, but that he did receive and conceal it within the meaning of those words which I just defined to you.



A mere passing, control or a brief, fleeting and shadowy possession of stolen property is not sufficient to justify a verdict of guilty, and unless you are satisfied beyond a reasonable doubt that the defendant in this case received and concealed the stolen jewelry in question, knowing it to have been stolen and transported in interstate commerce, within the meaning of the words of receiving and concealing as I have defined them to you, then your verdict must be not guilty.

—By Count 2 of the indictment, the defendant is accused of having actual knowledge of the transportation in interstate commerce of stolen property by the witness, George Henry Booth, and with concealing such fact and failing to disclose it to any judge of the United States or other person in civil or military authority under the United States of America. Mere silence upon the part of any person having knowledge of the commission of an offense under the laws of the United States is not sufficient to justify a conviction of such person; there must be some [231] affirmative act committed by such person toward the concealment of the felony, of which he has knowledge, to constitute the crime of misprision. So, in this case, unless you find, beyond a reasonable doubt, that the defendant not only had knowledge that the stolen jewelry in question was transported in interstate commerce, in violation of the laws of the United States, but also committed some affirmative act or took some step to conceal his knowledge of such violation from any judge or other person in civil or military authority of the United States, your verdict must be not guilty.



Where a defendant has offered evidence of good general reputation for truth and veracity or honesty and integrity, or as a law-abiding citizen, the jury should consider such evidence along with all the other evidence in the case. Evidence of a defendant's reputation, as to those traits of character ordinarily involved in the commission of the crime charged, may give rise to a reasonable doubt; since the jury may think it improbable that a person of good character in respect to those traits would commit such a crime.

Now, by the finding of an indictment no presumption whatsoever arises to indicate that a defendant is guilty, or that he has had any [232] connection with, or responsibility for, the act charged against him. A defendant is presumed to be innocent at all stages of the proceeding until the evidence introduced on behalf of the Government shows him to be guilty beyond a reasonable doubt, and this rule applies to every material element of the offense charged. Mere suspicion will not authorize a conviction. A reasonable doubt is such a doubt as you may have in your minds when, after fairly and impartially considering all of the evidence, you do not feel satisfied to a moral certainty of the defendant's guilt. In order that the evidence submitted shall afford proof beyond a reasonable doubt, it must be such as you would be willing to act upon in the most important and vital matters relating to your own affairs.

Reasonable doubt is not a mere possible or imaginary doubt or a bare conjecture; for it is difficult to prove a thing to an absolute certainty.

You are to consider the strong probabilities of the case. A conviction is justified only when such probabilities exclude all reasonable doubt as the same has been defined to you. Without it being restated or repeated, you are to understand that the requirement that a defendant's guilt be [233] shown beyond a reasonable doubt is to be considered in connection with and as accompanying all the instructions that are given to you.

In judging of the evidence, you are to give it a reasonable and fair construction, and you are not authorized, because of any feeling of sympathy or other bias, to apply a strained construction, one that is unreasonable, in order to justify a certain verdict when, were it not for such a feeling or bias, you would reach a contrary conclusion. And, whenever, after a careful consideration of all of the evidence, your minds are in that state where a conclusion of innocence is indicated equally with a conclusion of guilt, or there is a reasonable doubt as to whether the evidence is so balanced, the conclusion of innocence must be adopted.

You are the sole judges of the credibility and the weight which is to be given to the different witnesses who have testified upon this trial. A witness is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies; by the character of his testimony, or by evidence affecting his character for truth, honesty and integrity or his motives, or by contradictory evidence. In judging the [234] credibility of the witnesses in this case, you may believe the whole or any

part of the evidence of any witness, or may disbelieve the whole or any part of it, as may be dictated by your judgment as reasonable men.

You should carefully scrutinize the testimony given, and in so doing consider all of the circumstances under which any witness has testified, his demeanor, his manner while on the stand, his intelligence, the relations which he bears to the Government or the defendant, and the manner in which he might be affected by the verdict and the extent to which he is contradicted or corroborated by other evidence, if at all, and every matter that tends reasonably to shed light upon his credibility. If a witness is shown knowingly to have testified falsely on the trial touching any material matter, the jury should distrust his testimony in other particulars, and in that case you are at liberty to reject the whole of the witness' testimony.

The defendant has offered himself as a witness and has testified in the case. Having done so, you are to estimate and determine his credibility in the same way as you would consider the testimony of any other witness. It is proper to [235] consider all the matters that have been suggested to you in that connection, including the interest that the defendant may have in the case, his hopes and his fears, and what he has to gain or lose as a result of your verdict. You are not limited in your consideration of the evidence to the bald expressions of the witnesses. You are authorized to draw such inferences from the facts and circumstances which you find have been proved as seem justified in the light of your experience as reasonable persons.

There is nothing peculiarly different in the way a jury is to consider the proof in a criminal case from that by which men give their attention to any question depending upon evidence presented to them. You are expected to use your good sense, consider the evidence for the purposes only for which it has been admitted, and in the light of your knowledge of the natural tendencies and propensities of human beings, resolve the facts according to deliberate and cautious judgment; and while remembering that the defendant is entitled to any reasonable doubt that remain in your minds, remember as well that if no such doubt remains the Government is entitled to a verdict.

Jurors are expected to agree upon a verdict [236] where they can conscientiously do so. You are expected to consult with one another in the jury room and any juror should not hesitate to abandon his own view when convinced that it is erroneous. In determining what your verdict shall be you are to consider only the evidence before you. Any testimony as to which an objection was sustained, and any testimony which was ordered stricken out, must be wholly left out of account and disregarded. The opinion of the judge as to the guilt or innocence of a defendant, if directly or inferentially expressed in these instructions, or at any time during the trial, is not binding upon the jury. For, to the jury exclusively belongs the duty of determining the facts. The law you must accept from the Court as correctly declared in these instructions.

Now, after you retire to your jury room you will



select one of your number to act as foreman and proceed with your deliberations. After you have agreed upon a verdict, in the event you do so agree, you will have the verdict signed by your foreman and returned into open court. Any verdict agreed upon must be the unanimous verdict of the jury.

A form has been prepared for your [237] guidance which reads, in part:

“We, the jury, duly empaneled and sworn in the above-entitled action, upon our oaths do find the defendant Raoul A. Cosenza blank as charged in Count 1 of the indictment; blank as charged in Count 2 of the indictment,” and in those blanks you will insert whatever your finding may be, either “guilty” or “not guilty,” and the guilt or innocence of the defendant as to each count must be determined separately.

You may retire now in the custody of the bailiff.

(Thereupon the jury retired from the court room at 4 o'clock p.m. of the same day to proceed with their deliberations.) [238]

I Hereby Certify that the proceedings had and evidence given upon the trial of this cause is contained fully and accurately in the shorthand notes taken by me of said trial, and that the foregoing 238 typewritten pages contain a full, true and accurate transcript of the same.

/s/ LOUIS L. BILLAR,

Official Shorthand Reporter.

[Endorsed]: Filed June 30, 1951. [239]

[Title of District Court and Cause.]

CLERK'S CERTIFICATE TO RECORD  
ON APPEAL

United States of America,  
District of Arizona—ss.

I, William H. Loveless, Clerk of the United States District Court for the District of Arizona, do hereby certify that I am the custodian of the records, papers and files of the said Court, including the records, papers and files in the case of United States of America, Plaintiff, vs. Raoul A. Cosenza, Defendant, numbered C-9426 Phoenix, on the docket of said Court.

I further certify that the attached and foregoing original documents bearing the endorsements of filing thereon are the original documents filed in said case, and that the attached and foregoing copies of the minute entries are true and correct copies of the originals thereof remaining in my office in the City of Phoenix, State and District aforesaid.

I further certify that the said original documents, and said copies of the minute entries, constitute the record on appeal in said case as designated in the Appellant's Designation filed therein and made a part of the record attached hereto (excepting Government's exhibits 1-A, 1-B, 1-C, 1-D and 1-E which consist of jewelry), and the same are as follows, to wit:

1. Indictment, filed December 15, 1950.
2. Minute entry of January 8, 1951.



3. Minute entry of April 12, 1951.
4. Minute entry of April 13, 1951.
5. Verdict, filed April 13, 1951.
6. Minute entry of April 23, 1951.
7. Judgment and commitment, filed and docketed April 23, 1951.
8. Defendant's Notice of Appeal, filed April 27, 1951.
9. Defendant's Election not to Commence Serving Sentence, filed May 15, 1951.
10. Minute entry of May 28, 1951.
11. Minute entry of May 29, 1951.
12. Minute entry of June 1, 1951.
13. Order of Court of Appeals admitting defendant to bail pending appeal, filed June 25, 1951.
14. Defendant's Statement of Points on which Appellant Intends to Rely on Appeal, filed June 28, 1951.
15. Defendant's Designation of Record on Appeal, filed June 28, 1951.
16. Reporter's Transcript of Evidence, filed June 30, 1951.

I further certify that the Clerk's fee for preparing and certifying this said record on appeal amounts to the sum of \$4.00 and that said sum has been paid to me by counsel for the appellant.

Witness my hand and the seal of said Court this 3rd day of July, 1951.

[Seal]        /s/ WM. H. LOVELESS,  
Clerk.

[Endorsed]: No. 13004. United States Court of Appeals for the Ninth Circuit. Raoul A. Cosenza, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the District of Arizona.

Filed July 5, 1951.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for the  
Ninth Circuit.

United States Court of Appeals  
For the Ninth Circuit

No. 13004

RAOUL A. COSENZA,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS ON WHICH AP-  
PELLANT INTENDS TO RELY TO BE  
PRINTED ON APPEAL

To: The Clerk of the Above-Entitled Court, the  
United States of America, and the United  
States Attorney, Attorney for Appellee:

The appellant, Raoul A. Cosenza, hereby designates the following Statement of Points on which he intends to rely to be printed on appeal, to wit:

1.

The Indictment did not charge an offense against the United States in either count.

2.

There was no substantial evidence to support a verdict of guilty. The Court erred in denying appellant's motion for judgment of acquittal on both counts made at the close of the entire case.

3.

A fatal variance between the Indictment and the proof offered.

4.

The Court erred in allowing Government exhibits to be introduced into evidence over timely objection by the appellant.

5.

The Court erred in permitting the Government witness Lona Lane to testify concerning zircons over timely objection by the appellant.

6.

The Court erred in not setting a standard for evaluation of the jewelry.

7.

The Court erred when charging the jury on Count 2 of the Indictment wherein the Court voluntarily and extemporaneously remarked, "well, that is a fact, it was".

8.

The Court erred in not instructing the jury as to the evaluation to be given to the testimony of a convicted felon.

Dated this 3rd day of July, 1951.

/s/ IRA J. BERGMAN,

Attorney for Appellant.

Receipt of Copy acknowledged.

[Endorsed]: Filed July 5, 1951.

[Title of District Court and Cause.]

DESIGNATION OF RECORD TO BE  
PRINTED ON APPEAL

To: The Clerk of the Above-Entitled Court, the  
United States of America, and the United  
States Attorney, Attorney for Appellee:

The appellant, Raoul A. Cosenza, hereby designates the following portions of the records and proceedings of evidence to be printed on appeal, to wit:

1. The Indictment.
2. The Verdict.
3. Judgment.
4. Reporter's Transcript of Evidence.
5. The following Minute Entries:

Minute Entry of Monday, January 8, 1951.

Minute Entry of Thursday, April 12, 1951.

Minute Entry of Friday, April 13, 1951.

Minute Entry of Monday, April 23, 1951.

Minute Entry of Monday, May 28, 1951 (that portion pertaining to Motion for Order Fixing Bail Pending Appeal and Motion for 60-Day Extension).

Minute Entry of Tuesday, May 29, 1951.

Minute Entry of Friday, June 1, 1951 (that portion pertaining to Motion for Order Fixing Bail Pending Appeal).

6. Notice of Appeal.
7. Election not to Commence Serving Sentence.
8. Order Granting Motion for Admission to Bail Pending Appeal.

9. Statements of Points upon which Appellant  
Intends to Rely on Appeal.

10. This Designation.

11. Certificate of Clerk.

Dated this 3rd day of July, 1951.

/s/ IRA J. BERGMAN,  
Attorney for Appellant.

Receipt of Copy acknowledged.

[Endorsed]: Filed July 5, 1951.



